

10:31:22 1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE EASTERN DISTRICT OF TEXAS  
3 MARSHALL DIVISION  
4  
5 GREE, INC., ) ( CIVIL ACTION NOS.  
6 PLAINTIFFS, ) ( 2:19-CV-70-JRG-RSP  
7 VS. ) ( 2:19-CV-71-JRG-RSP  
8 SUPERCELL OY, ) ( MARSHALL, TEXAS  
9 DEFENDANTS. ) ( SEPTEMBER 15, 2020  
10 ) ( 8:30 A.M.  
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TRANSCRIPT OF JURY TRIAL

VOLUME 7 - MORNING SESSION

BEFORE THE HONORABLE JUDGE RODNEY GILSTRAP

UNITED STATES CHIEF DISTRICT JUDGE

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19 Official Court Reporter  
20 United States District Court  
21 Eastern District of Texas  
22 Marshall Division  
23 100 E. Houston  
24 Marshall, Texas 75670  
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(Proceedings recorded by mechanical stenography, transcript  
produced on a CAT system.)

08:31:09 1 P R O C E E D I N G S

08:31:09 2 (Jury out.)

08:31:10 3 COURT SECURITY OFFICER: All rise.

08:31:12 4 THE COURT: Be seated, please.

08:32:08 5 All right. Before the parties read into the  
08:32:13 6 record the items from the list of pre-admitted exhibits  
08:32:16 7 used during yesterday's portion of the trial, I'd like to  
08:32:19 8 clarify for the record that there appear to be technically,  
08:32:24 9 although I think everyone understands they're no longer  
08:32:27 10 operative, but technically there are unresolved objections  
08:32:30 11 to the Magistrate Judge's orders on motions in limine,  
08:32:36 12 being Document No. 425, 426, and 427 in the 70 case; and  
08:32:42 13 Documents 311, 312, and 313 in the 71 case.

08:32:48 14 Those objections and all objections to the orders  
08:32:51 15 on motions in limine entered by the Magistrate Judge are  
08:32:55 16 overruled.

08:32:55 17 All right. Now, let me hear from the parties as  
08:32:58 18 to the items from the list of pre-admitted exhibits used  
08:33:01 19 yesterday.

08:33:02 20 MR. MOORE: Thank you, Your Honor. Ms. Koballa  
08:33:04 21 will come to the podium and read them.

08:33:07 22 MS. KOBALLA: Good morning, Your Honor.

08:33:18 23 THE COURT: Good morning, please proceed.

08:33:23 24 MS. KOBALLA: PTX-61, PTX-72, PTX-73, PTX-74,  
08:33:32 25 PTX-87, PTX-97, PTX-105, PTX-106, PTX-107, PTX-355,

08:33:48 1 PTX-356, PTX-357, PTX-358, PTX-359, PTX-360, PTX-361,  
08:34:03 2 PTX-362, PTX-363, PTX-364, PTX-365, PTX-366, PTX-367,  
08:34:19 3 PTX-368, PTX-369, PTX-370, PTX-371, PTX-372, PTX-373,  
08:34:33 4 PTX-374, PTX-375, PTX-376, PTX-377, PTX-378, PTX-379,  
08:34:48 5 PTX-380, PTX-381, PTX-382, PTX-383, PTX-384, PTX-385,  
08:35:01 6 PTX-386, PTX-387, PTX-388, PTX-389, PTX-390, PTX-391,  
08:35:17 7 PTX-426, PTX-427, PTX-428, PTX-429, PTX-430, PTX-431,  
08:35:28 8 PTX-432, PTX-433, PTX-434, PTX-435, PTX-436, PTX-437,  
08:35:41 9 PTX-438, PTX-439, PTX-440, PTX-441, PTX-442, PTX-443,  
08:35:54 10 PTX-444, PTX-451, PTX-607, PTX-625, PTX-634, PTX-637, and  
08:36:09 11 PTX-689.

08:36:11 12 THE COURT: All right. Is there objection to that  
08:36:13 13 rendition?

08:36:14 14 MR. DACUS: No objection, Your Honor.

08:36:16 15 THE COURT: Do Defendants have a similar rendition  
08:36:18 16 to offer into the record?

08:36:19 17 MR. SACKSTEDER: Good morning, Your Honor. Yes,  
08:36:20 18 we do. Chris Larson will read the exhibits into the  
08:36:23 19 record.

08:36:24 20 THE COURT: All right. Please proceed.

08:36:26 21 MR. LARSON: Thank you, Your Honor.

08:36:32 22 The list of exhibits are DX-33, DX-34, DX-35,  
08:36:41 23 DX-36, DX-47, DX-215, DX-232, DX-1190, DX-1221, DX-1223,  
08:36:56 24 DX-1232, DX-1234, DX-1236, PTX-76, PTX-131, PTX-139,  
08:37:10 25 PTX-142, PTX-150, and PTX-480. Thank you.

08:37:15 1 THE COURT: All right. Is there objection from  
08:37:17 2 Plaintiff?

08:37:18 3 MR. MOORE: No, Your Honor, no objection.

08:37:20 4 THE COURT: All right. Either party have anything  
08:37:28 5 before I bring in the jury and we proceed with the next  
08:37:31 6 defense witness?

08:37:31 7 MR. MOORE: Nothing from the Plaintiff,  
08:37:33 8 Your Honor.

08:37:33 9 MR. DACUS: Nothing from the Defendant,  
08:37:34 10 Your Honor.

08:37:34 11 THE COURT: Let's bring in the jury, please.

08:37:36 12 COURT SECURITY OFFICER: Yes, sir.

08:37:37 13 All rise.

08:37:41 14 (Jury in.)

08:37:41 15 THE COURT: Good morning, members of the jury.

08:38:06 16 Please be seated.

08:38:07 17 Defendant, call your next witness.

08:38:14 18 MR. SACKSTEDER: Good morning, Your Honor.

08:38:17 19 Supercell calls Eino Joas by trial deposition video.

08:38:23 20 THE COURT: Would you identify this individual for  
08:38:25 21 us?

08:38:25 22 MR. SACKSTEDER: He is an employee of Supercell.

08:38:27 23 THE COURT: All right. Let's proceed with the  
08:38:28 24 witness by deposition.

08:38:32 25 (Videoclip played.)

08:38:33 1           QUESTION: Good morning, Mr. Joas. Can you please  
08:38:39 2 state your full name for the jury?  
08:38:41 3           ANSWER: Eino Joas.  
08:38:42 4           QUESTION: Where are you testifying from today?  
08:38:44 5           ANSWER: I'm testifying from Helsinki, Finland.  
08:38:46 6           QUESTION: Why were you not able to testify in  
08:38:49 7 person with the jury today?  
08:38:50 8           ANSWER: Well, unfortunately, due to COVID --  
08:38:57 9 situation with COVID at the moment, Finnish residents are  
08:39:01 10 not permitted to travel to the United States at the present  
08:39:01 11 time.  
08:39:06 12           QUESTION: Thank you. And where do you work now?  
08:39:08 13           ANSWER: I work at Supercell.  
08:39:09 14           QUESTION: How long have you worked there?  
08:39:11 15           ANSWER: Just about four years.  
08:39:14 16           QUESTION: What is your title at Supercell?  
08:39:17 17           ANSWER: My current title at Supercell is game  
08:39:19 18 lead of Clash of Clans.  
08:39:20 19           QUESTION: What is a game lead?  
08:39:22 20           ANSWER: Well, game lead is someone at Supercell  
08:39:29 21 who is responsible for the wellbeing and functionality of  
08:39:31 22 the team so the team functions well and also that the team  
08:39:34 23 keeps moving and keeps developing stuff for our games.  
08:39:38 24           QUESTION: How long have you been game lead of  
08:39:40 25 Clash of Clans?

08:39:40 1 ANSWER: Just over three years.

08:39:47 2 QUESTION: And why did you join Supercell in the  
08:39:50 3 first place?

08:39:50 4 ANSWER: Well, I -- when I joined -- before I  
08:39:52 5 joined Supercell, I was, of course, familiar with the games  
08:39:55 6 that Supercell has made because they're very well-known and  
08:39:57 7 very successful, but I think what really drew me to  
08:40:00 8 Supercell is the independent teams and the kind of full  
08:40:04 9 responsibility the teams -- the teams get.

08:40:07 10 QUESTION: Okay. Let's take a step back. Can you  
08:40:10 11 explain to the jury what Clash of Clans is?

08:40:11 12 ANSWER: Sure. So Clash of Clans is a mobile  
08:40:16 13 video game, and it's a game that sort of -- has elements  
08:40:21 14 from tower defense and strategy games. And if you want to  
08:40:24 15 really kind of boil it down, it's a build and battle game.

08:40:28 16 So you build a village that's your own village,  
08:40:30 17 and then you start the village. You also train troops and  
08:40:34 18 build Armies and you use those Armies to attack other  
08:40:37 19 players, steal some loot from them, and use that loot to  
08:40:40 20 build your village further, build and battle.

08:40:44 21 QUESTION: When was Clash of Clans released in  
08:40:46 22 United States?

08:40:47 23 ANSWER: In 2012.

08:40:49 24 ATTORNEY: And, Mr. Smith, can you please pull up  
08:40:52 25 the first demonstrative slide?

08:40:54 1           QUESTION: Mr. Joas, can you please explain what  
08:40:57 2 this is?

08:40:58 3           ANSWER: Sure. So this is a village of an early  
08:41:01 4 game village, including the orange building in the middle,  
08:41:04 5 the biggest one, that's your town hall, which is sort of  
08:41:04 6 the main building in the village.

08:41:08 7           And then in addition to that, you have things like  
08:41:10 8 resource collectors that you use to get resources, some  
08:41:13 9 storages, and then also defenses like the canons there in  
08:41:18 10 the middle of the screen.

08:41:18 11           And then, in addition, you have also the Army  
08:41:21 12 buildings, so buildings to train your troops and house  
08:41:27 13 them.

08:41:28 14           ATTORNEY: Mr. Smith, can you please pull up the  
08:41:31 15 next demonstrative slide? Next slide.

08:41:32 16           QUESTION: And, Mr. Joas, what are we seeing here?

08:41:35 17           ANSWER: So now we're actually looking at the --  
08:41:38 18 the -- your kind of growth of your village over time.

08:41:40 19           So as you advance in the game, you level up your  
08:41:43 20 town hall, the main building of your village, and then that  
08:41:46 21 gives you access to new things to do, new toys to play  
08:41:51 22 with, new ways to kind of attack other players in the game,  
08:41:56 23 and new ways to have fun.

08:41:59 24           And, yeah, in turn, the village sort of -- as you  
08:42:02 25 can see, like it turns from this quaint little village to

08:42:07 1 this kind of very intimidating fortress style of a  
08:42:11 2 structure. So when you get to the end of the game, you're  
08:42:15 3 very powerful, and your village is also very big and  
08:42:17 4 strong.

08:42:18 5 ATTORNEY: And the next slide, please, Mr. Smith.

08:42:20 6 QUESTION: Mr. Joas, you mentioned attacking other  
08:42:24 7 villages. What do you mean by that?

08:42:26 8 ANSWER: So one of the important things that you  
08:42:27 9 can do in the games -- one of the main activities as a  
08:42:30 10 player is that you can train Armies and use those to attack  
08:42:34 11 other players.

08:42:34 12 And the goal of those attacks is to steal some  
08:42:38 13 loot from other players and kind of get some fame and  
08:42:41 14 glory. And you do this by training an Army, bringing that  
08:42:44 15 to the battle, and then you tap on the edges of the  
08:42:48 16 villages to deploy the units.

08:42:48 17 Here you can see that this player has deployed a  
08:42:52 18 lot of yellow-haired barbarians. Also, some dragons are  
08:42:54 19 flying in the sky. So it's a very colorful Army, and  
08:42:57 20 they're going full at it attacking the enemy village and  
08:43:02 21 trying to get the loot.

08:43:03 22 And then you also in the lower -- lower part, you  
08:43:06 23 have the troop bar. There you can also see some heroes and  
08:43:10 24 some spells that you can use to help you in the attack.

08:43:12 25 QUESTION: I'd like to show you a portion of the

08:43:15 1 video from Plaintiff's Exhibit No. 159.

08:43:17 2 Can you tell me what's happening in this slide?

08:43:21 3 ANSWER: Sure. So here we have a player attacking  
08:43:26 4 a village with Valkyries.

08:43:28 5 So Valkyries are this red-headed warrior that do a  
08:43:32 6 spinning attack. And they're doing a great job. I think  
08:43:35 7 the village is going to get destroyed. Actually, this was  
08:43:38 8 a perfect attack. So all the buildings were destroyed and  
08:43:42 9 all the loot was gained.

08:43:43 10 QUESTION: I'd now like to show you a slide from  
08:43:46 11 Plaintiff's Exhibit No. 33.

08:43:48 12 First off, what -- what is this slide from, and  
08:43:53 13 can you tell me what's in this slide?

08:43:56 14 ANSWER: So this is from my presentation at game  
08:43:59 15 developer's conference earlier this year, and this slide is  
08:44:02 16 an explanation of the core activities of Clash of Clans.

08:44:05 17 And sort of in the vein that I've just  
08:44:09 18 mentioned -- mentioned, the kind of main thing you do in  
08:44:12 19 the game is you build your village, you train Armies,  
08:44:16 20 and that -- you can see at the bottom of the screen.

08:44:19 21 Then you take those Armies into battle where you  
08:44:22 22 earn some gold and Elixir, and then you bring those  
08:44:24 23 resources back to your village, invest them, again, to  
08:44:28 24 building stronger buildings, training stronger Armies.

08:44:32 25 Then in the middle, the harvesting resources bit,

08:44:37 1 that's sort of an additional way to gain these gold and  
08:44:39 2 Elixir resources. So you have collectors in your village  
08:44:40 3 that generate gold and Elixir over time there. And sort of  
08:44:45 4 that way you can also grow your village.

08:44:47 5           QUESTION: Okay.

08:44:49 6           ATTORNEY: Okay. And, Mr. Smith, you can pull  
08:44:51 7 down the demonstratives now.

08:44:52 8           QUESTION: Mr. Joas, can you explain to the jury  
08:44:54 9 why is the game called Clash of Clans?

08:44:56 10          ANSWER: Sure. So it's called Clash of Clans  
08:45:00 11 because clans is a social unit in the game, and it's --  
08:45:05 12 clans are something that players can form together and  
08:45:09 13 part -- take part in various activities together.

08:45:11 14          QUESTION: What -- what sort of things can players  
08:45:14 15 do with their clans?

08:45:15 16          ANSWER: They can chat with each other, they can  
08:45:19 17 strategize, they can fight wars against other clans, win  
08:45:27 18 something we call Clan Wars.

08:45:29 19          QUESTION: And let's take a step back to 2012 when  
08:45:32 20 you said the gain was released.

08:45:34 21          What was the reaction in the United States when  
08:45:36 22 the game was released?

08:45:37 23          ANSWER: The game was a pretty much an  
08:45:40 24 immediate -- like an overnight hit, and it took the app  
08:45:45 25 charts by storm. So in the my -- U.S., for example,

08:45:48 1 there's this app ranking. I think Clash of Clans climbed  
08:45:51 2 to the very top of that, and we've stayed there for the  
08:45:54 3 past eight years pretty much. Like, we're still very  
08:45:59 4 frequently in the top 10.

08:46:00 5           QUESTION: So you've talked about the success of  
08:46:02 6 the game. What -- what makes the game, Clash of Clans, a  
08:46:06 7 success?

08:46:06 8           ANSWER: Well, it -- it might -- it can be a bit  
08:46:11 9 hard to kind of pinpoint on any one thing. I think the  
08:46:14 10 game has very -- like it has great graphics. It has a very  
08:46:18 11 elegant game design that's very easy to understand. And  
08:46:23 12 then the kind of themes of the game are very universal.

08:46:27 13           So you build your village, you use Armies to  
08:46:31 14 attack other villages, you steal gold from them, you use  
08:46:34 15 that to build your village. So it's very approachable in  
08:46:38 16 that sense.

08:46:38 17           But I think one sort of one really big  
08:46:40 18 contributing factor is that also that it's a game you can  
08:46:41 19 play for years. Since you invest in your village, that  
08:46:45 20 becomes very important to you, and you can actually -- you  
08:46:48 21 sort of get attached to it and stay with it for a long  
08:46:53 22 time. So, yeah, you can play for years.

08:46:54 23           QUESTION: I'd like to turn back now to  
08:46:56 24 Plaintiff's Exhibit No. 33.

08:46:58 25           Can you explain for the jury then what this is?

08:47:00 1                   ANSWER: So this is another slide, I guess, from  
08:47:08 2 my presentation. This is an early loading screen, one of  
08:47:13 3 the earlier ones that we had. And it's depicting this --  
08:47:17 4 like sort of the field of the battle in Clash of Clans.

08:47:21 5                   ATTORNEY: And, Mr. Smith, can you turn to the  
08:47:23 6 next slide from Plaintiff's Exhibit No. 33?

08:47:27 7                   QUESTION: Mr. Joas, what is on this slide?

08:47:29 8                   ANSWER: So, again, this is a slide from my  
08:47:31 9 presentation at the game developer's conference this year.  
08:47:34 10 And this slide -- this slide is about the success of Town  
08:47:39 11 Hall 13 launch, which was the latest town hall addition,  
08:47:43 12 the highest level that we just added to the game, late --  
08:47:47 13 late last year.

08:47:48 14                   QUESTION: Says Town Hall 13. What does town hall  
08:47:52 15 refer to again?

08:47:52 16                   ANSWER: So in -- at the very beginning, we had  
08:47:55 17 the quaint village with orange -- orange building in the  
08:47:59 18 middle. That's your town hall. And as you build up your  
08:48:02 19 village, the town hall is sort of the measuring stick of  
08:48:05 20 progress. And Town Hall 13 is the latest and most advanced  
08:48:09 21 level that we've added to the game. It's basically the  
08:48:12 22 max -- max level in the game at the moment.

08:48:15 23                   ATTORNEY: Let's turn to the next slide of the  
08:48:17 24 presentation.

08:48:18 25                   QUESTION: What's -- can you explain to the jury

08:48:20 1 what this slide is about?

08:48:21 2 ANSWER: Sure. Well, this is, again, saying --

08:48:25 3 from the same presentation. This slide is about how the

08:48:29 4 conversation of our player base has changed.

08:48:32 5 So we used to -- in the beginning of 2018, we had

08:48:36 6 very few players on the max levels in the game, and we've

08:48:40 7 changed that composition drastically. And when -- leading

08:48:44 8 up to 2 -- December 2019, we went from -- I think it was

08:48:50 9 10 -- around 10 percent to 35 percent being on the highest

08:48:55 10 levels.

08:48:56 11 So the player-base nowadays in the game is way

08:49:02 12 more balanced, and we have way -- way more people across

08:49:05 13 the different levels, especially on the highest levels,

08:49:08 14 which means that kind of there's more people always waiting

08:49:11 15 for the newest town hall releases.

08:49:14 16 ATTORNEY: Let's turn back to the prior slide now.

08:49:16 17 QUESTION: At the top it says: Content is king.

08:49:19 18 Why does it say that there?

08:49:20 19 ANSWER: Well, I was basically making a point here

08:49:22 20 that content for us -- by content, as in releasing new town

08:49:27 21 hall levels and releasing new buildings or releasing new

08:49:31 22 troops. It is really kind of the soul of the game, and

08:49:34 23 it's what drives -- drives everything in the game.

08:49:36 24 When we add new content, we get -- people start

08:49:39 25 paying again, and then we get more revenue. And, overall,

08:49:43 1 I think it - we just make players really happy when we do  
08:49:47 2 that.

08:49:47 3 QUESTION: Can you give an example of a -- a  
08:49:49 4 release of a town hall that provided new content to the  
08:49:54 5 players?

08:49:54 6 ANSWER: Sure. So Town Hall 13, like this -- this  
08:49:58 7 slide -- that was the last one we did. That was in  
08:50:00 8 December 2019. And then the previous one, I guess, was  
08:50:05 9 Town Hall 12 in June 2018.

08:50:09 10 ATTORNEY: And, Mr. Smith, can you turn to the  
08:50:10 11 next slide?

08:50:12 12 QUESTION: Mr. Joas, what -- what is this slide  
08:50:14 13 here?

08:50:14 14 ANSWER: So this slide is sort of like -- it's  
08:50:17 15 showing the content that we released with Town Hall 12,  
08:50:22 16 which was the previous town hall level we released in June  
08:50:26 17 2018.

08:50:27 18 And on the right, you can see the different things  
08:50:31 19 we did, like we added a bunch of new things. We added a  
08:50:35 20 town hall that actually has a weapon inside of it. So when  
08:50:38 21 you attack it, it gets angry and shoots back. That was  
08:50:42 22 another mechanic that didn't exist in the game at the time.

08:50:45 23 Then we added electro dragon, which is the big  
08:50:49 24 dragon -- blue dragon unit in the middle. And then we  
08:50:52 25 added siege machines, which are sort of this, like,

08:50:54 1 battering ram, and this, like, balloons that you can  
08:50:55 2 actually use to get to the heart of the enemy -- enemy  
08:50:58 3 village, and also providing a novel gameplay.

08:51:02 4                 And then the things on the side, we have the  
08:51:05 5 troops. So we added a bunch of new troop levels. And then  
08:51:08 6 on the right you can see different buildings we added.  
08:51:09 7 With the new town hall level, we always -- always bring  
08:51:12 8 also new buildings to the game. You can see some of the  
08:51:15 9 buildings we added there.

08:51:16 10              QUESTION: I'd like to now show you Plaintiff's  
08:51:22 11 Exhibit No. 446.

08:51:24 12              Please explain to the jury what this is.

08:51:31 13              ANSWER: Sure. So these are the release notes  
08:51:34 14 that we produce with every update. And this -- these  
08:51:37 15 release notes are particularly for the update in the  
08:51:41 16 previous slide, so Town Hall 12 update.

08:51:46 17              QUESTION: And what features were released with  
08:51:50 18 the Town Hall 12 update?

08:51:53 19              ANSWER: Sure. So the Town Hall 12 update as it's  
08:51:53 20 sort of highlights -- is highlighted here is what was about  
08:51:53 21 Town Hall 12.

08:51:56 22              And like I mentioned before, it was a big moment  
08:51:58 23 for the community. Whenever we release new content, it's a  
08:52:01 24 big deal. And at this point, it had been two-an-a-half  
08:52:04 25 years since Town Hall 11 was released. So there was

08:52:09 1 actually a lot of pinned-up demand for new things to play  
08:52:13 2 with.

08:52:13 3 So the town hall was the main dish. And then we  
08:52:16 4 had the siege workshops -- the siege machines that I also  
08:52:16 5 mentioned. And then I guess the new troop, the electro  
08:52:25 6 dragon. Then we had some building levels that I also  
08:52:29 7 mentioned. We had troop levels. I think -- I guess we had  
08:52:34 8 a bunch of quality of life changes.

08:52:38 9 QUESTION: Right. You mentioned quality of life  
08:52:40 10 features. Let's turn to Page 4 of the exhibit.

08:52:43 11 What -- first off, what are quality of life  
08:52:47 12 changes?

08:52:48 13 ANSWER: So quality of life changes are sort of  
08:52:50 14 these small things that we do with every update, usually  
08:52:54 15 wishes from the community, small things that make the game  
08:52:57 16 a bit more convenient to play and remove some friction from  
08:53:02 17 the lives of players.

08:53:03 18 QUESTION: What quality of life changes were  
08:53:05 19 implemented with this update?

08:53:07 20 ANSWER: Sure. So in this update, we gave the  
08:53:09 21 players the ability to change it -- change their name by  
08:53:12 22 using gems.

08:53:14 23 Previously, they just could do it once. We did  
08:53:17 24 some clan improvements. Sort of clans would get into a  
08:53:21 25 state of being without a leader. We implemented clan

08:53:26 1 castle sleep mode so that you could actually protect your  
08:53:29 2 clan castle troops and not lose them in a defense.

08:53:29 3 And then we did the copy village layout feature  
08:53:29 4 that allows you to copy a village layout from your clan  
08:53:29 5 mate.

08:53:37 6 And then we did a bunch of improvements to clan  
08:53:41 7 games, which is an event that we have in the game.

08:53:44 8 QUESTION: You mentioned the copy village layout  
08:53:48 9 feature. What is the copy layout feature?

08:53:52 10 ANSWER: The copy village -- village layout  
08:53:57 11 feature is a feature that allows you to -- when you're  
08:54:01 12 visiting your clan mate's village, it allows you to copy to  
08:54:06 13 one of your own village layout slots and then use it for  
08:54:09 14 yourself.

08:54:10 15 QUESTION: And I'd like to turn to the next  
08:54:13 16 demonstrative slide, as well.

08:54:15 17 What is the layout editor feature?

08:54:19 18 ANSWER: The layout editor feature is a toolkit  
08:54:25 19 that allows -- has tools to -- for editing your village.  
08:54:29 20 And then it also allows saving and loading village lots.

08:54:34 21 So if you would want to sort of have different  
08:54:37 22 kinds of village layouts, layout editor allows you to do  
08:54:43 23 that with ease.

08:54:43 24 QUESTION: How is the copy layout feature  
08:54:45 25 different from the layout editor?

08:54:46 1                   ANSWER: And so the layout editor is a suite of  
08:54:50 2 tools that you use to edit your village layouts. A copy  
08:54:55 3 layout feature is something where when you visit a clan  
08:54:57 4 mate, you can actually take a layout that they made and  
08:55:01 5 then save it into one of your empty layout slots that you  
08:55:04 6 have in the layout editor.

08:55:05 7                   QUESTION: And turning back to the -- the copy  
08:55:09 8 layout editor layout feature, what would players do to copy  
08:55:16 9 other player's bases before the copy layout feature was  
08:55:16 10 implemented?

08:55:17 11                  ANSWER: So they would simply visit the villages,  
08:55:21 12 and then usually take a screenshot and then just use the  
08:55:25 13 layout editor to build that layout themselves.

08:55:27 14                  QUESTION: I'd like to discuss a slightly  
08:55:32 15 different issue now, and that is revenue. How does  
08:55:35 16 Supercell make revenue?

08:55:36 17                  ANSWER: Sure. So we mainly make revenue by  
08:55:42 18 selling something we call gems. Gems are virtual currency  
08:55:46 19 that you can actually use to get either resources like gold  
08:55:49 20 and Elixir that I mentioned before.

08:55:51 21                  Those are used to upgrade your things in the  
08:55:53 22 village and make your village stronger. And in Clash of  
08:55:59 23 Clans, everything you start building has a timer, so you  
08:56:02 24 can use gems to skip those timers.

08:56:07 25                  QUESTION: What does Supercell charge to use the

08:56:10 1 copy layout feature?

08:56:10 2 ANSWER: We don't charge anything to use the copy  
08:56:14 3 layout feature. The copy layout feature is completely  
08:56:16 4 free.

08:56:16 5 QUESTION: We talked about several updates, the  
08:56:23 6 Town Hall 12 update. How, if at all, is revenue tied to  
08:56:26 7 updates?

08:56:27 8 ANSWER: Revenue is tied to updates because the  
08:56:29 9 main thing that we sell is progression and content to the  
08:56:33 10 players.

08:56:33 11 So whenever we -- we release new content in the  
08:56:36 12 form of updates, then usually we have a group of players  
08:56:42 13 that already have sort of reached the maxed-out state.

08:56:48 14 Like I mentioned with Town Hall 12, it had been  
08:56:48 15 two-and-a-half years since the previous update. And that  
08:56:48 16 meant that there were actually a lot of players on Town  
08:56:51 17 Hall 11 who were anxiously awaiting for new content, and  
08:56:54 18 they didn't have anything to spend on -- at that point.

08:56:58 19 So whenever we release new content and a new town  
08:57:03 20 hall level that gives you new buildings and new troops and  
08:57:06 21 everything, then that demand gets a release, and people can  
08:57:09 22 start progressing again and spending money again. And  
08:57:13 23 that, of course, feeds heavily into revenue.

08:57:15 24 QUESTION: What other features have had a similar  
08:57:17 25 impact?

08:57:17 1                   ANSWER: Then in a different -- sort of different  
08:57:20 2 vein, I think the gold path feature that we implemented  
08:57:24 3 in -- I think it was April 2019, had a very positive impact  
08:57:30 4 on revenue.

08:57:31 5                   And it did so through -- like it offered some  
08:57:34 6 unique things like unique hero skins. And then also it was  
08:57:38 7 an unbeatable value proposition in terms of, like, getting  
08:57:42 8 progression at a very low price point. And I think through  
08:57:46 9 that, we succeeded in sort of widening our appeal to  
08:57:49 10 different players.

08:57:50 11                 QUESTION: What, if any, relationship does gold  
08:57:53 12 pass have with the copy layout feature?

08:57:55 13                 ANSWER: No relationship at all.

08:58:03 14                 QUESTION: Okay. I'd like to talk about the  
08:58:05 15 present lawsuit. And if we can talk about the -- the  
08:58:08 16 slide -- Plaintiff's Exhibit 33?

08:58:13 17                 ATTORNEY: Mr. Smith, if you can pull up  
08:58:16 18 Plaintiff's Exhibit 33, please.

08:58:17 19                 QUESTION: And, Mr. Joas, can you please explain  
08:58:20 20 what this is, please?

08:58:20 21                 ANSWER: Sure. This is in my presentation at the  
08:58:24 22 game developer's conference. I talked about the gold pass  
08:58:30 23 and how -- what made that successful. And these were the  
08:58:30 24 things that I mentioned.

08:58:37 25                 We had a very good value proposition where we

08:58:37 1 loaded up the gold pass with so much value that it would be  
08:58:41 2 hard to refuse. It's something that you can get only once  
08:58:45 3 per month, so we were comfortable with giving this extra  
08:58:49 4 value at a lower -- lower price point. And that, of  
08:58:51 5 course, is appealing to those users or players who don't  
08:58:54 6 have that much money to spend. So this was for them.

08:58:56 7 And then we also had exclusive cosmetics, so we  
08:59:00 8 had hero skins in the mix. And we think that those also  
08:59:04 9 have a unique appeal to some players that haven't spent any  
08:59:08 10 money before. And through that, we probably got them to  
08:59:11 11 consider it.

08:59:12 12 QUESTION: Okay.

08:59:12 13 ATTORNEY: And, Mr. Smith, you can pull down the  
08:59:16 14 exhibit.

08:59:17 15 QUESTION: And now I'd like to turn to GREE in the  
08:59:17 16 present lawsuit.

08:59:18 17 Mr. Joas, what, if any, monitoring has Supercell  
08:59:21 18 done of GREE?

08:59:22 19 ANSWER: None that I know of.

08:59:24 20 QUESTION: What about GREE's games?

08:59:29 21 ANSWER: Also, none that I know of.

08:59:31 22 QUESTION: And what about GREE's patents?

08:59:34 23 ANSWER: None that I know of.

08:59:35 24 QUESTION: What, if any, changes has Supercell  
08:59:39 25 made to the copy layout feature based on the -- this

08:59:42 1 present case?

08:59:43 2 ANSWER: We haven't made any changes.

08:59:46 3 QUESTION: Would removing copy layout be possible?

08:59:50 4 ANSWER: Yes, it would be possible.

08:59:52 5 QUESTION: Has Supercell removed the -- the copy  
08:59:56 6 layout feature?

08:59:57 7 ANSWER: No, we haven't.

08:59:58 8 QUESTION: If removing the feature is possible,  
09:00:05 9 why has Supercell not done so?

09:00:08 10 ANSWER: Well, in this case, we don't think we've  
09:00:11 11 done anything wrong, mainly because copying and pasting is  
09:00:15 12 a very universal action. It's existed in software  
09:00:18 13 applications for a long time, and -- yeah.

09:00:20 14 QUESTION: Has Supercell ever removed the layout  
09:00:23 15 editor feature before?

09:00:24 16 ANSWER: Yes, we have.

09:00:25 17 QUESTION: Where?

09:00:26 18 ANSWER: We removed in Japan for Japanese players  
09:00:33 19 for -- for a period of around two years.

09:00:36 20 QUESTION: And what impact, if any, did removing  
09:00:41 21 the layout feature -- feature have in Japan?

09:00:44 22 ANSWER: We didn't see any impact in revenue or  
09:00:47 23 user metrics after having removed it.

09:00:50 24 QUESTION: All right. Let's move back to the copy  
09:00:54 25 layout feature.

09:00:54 1 You said it was introduced in 2018. Why was it  
09:00:58 2 not introduced earlier?

09:01:00 3 ANSWER: Well, it wasn't really kind of an easy  
09:01:06 4 decision to introduce it. When players in Clash of Clans  
09:01:10 5 get attached to their village and we kind of felt that it's  
09:01:14 6 a bit risky to allow people to copy other players' layouts  
09:01:19 7 because it might feel like cheapen -- cheapen their work.  
09:01:24 8 Like, you make a layout yourself and then someone just  
09:01:27 9 easily copies it. We weren't sure how that feels for the  
09:01:29 10 players.

09:01:29 11 And then also we had a concern that the meta game.  
09:01:32 12 So what do people's villages look like overall? What would  
09:01:38 13 happen to that? Would all the villages start looking the  
09:01:41 14 same? We had a concern with that, and we only added the  
09:01:45 15 copy layout feature after we sort of found this kind of a  
09:01:49 16 nice balance that you can only copy from your clan mates  
09:01:52 17 and not from anyone in the game.

09:01:53 18 And that's -- that's -- when we figured this out  
09:01:58 19 then we were comfortable adding that feature to the game.

09:02:00 20 QUESTION: I understood. Thank you, Mr. Joas. I  
09:02:03 21 have no further questions.

09:02:05 22 With that, I'll pass the witness.

09:02:06 23 QUESTION: Good morning, Mr. Joas, my name is  
09:02:08 24 Steve Moore, and we met previously, correct?

09:02:10 25 ANSWER: Yeah. Good morning, nice to meet you

09:02:12 1 again.

09:02:12 2 QUESTION: All right. You too. Thank you.

09:02:14 3 Now --

09:02:14 4 VIDEOGRAPHER: Excuse me. Does he have his

09:02:19 5 microphone on? I'm sorry.

09:02:20 6 THE WITNESS: Can you hear me?

09:02:22 7 VIDEOGRAPHER: Yes, that's better, yep.

09:02:25 8 Proceed.

09:02:26 9 QUESTION: Now, you're the game lead for the Clash

09:02:33 10 of Clans team, correct?

09:02:34 11 ANSWER: Correct.

09:02:35 12 QUESTION: And that means you lead the team?

09:02:38 13 ANSWER: Yes, correct.

09:02:40 14 QUESTION: And you report to Supercell's CEO,

09:02:43 15 correct?

09:02:43 16 ANSWER: Yes, correct.

09:02:44 17 QUESTION: The Clash of Clans team has around 20

09:02:47 18 people on it, right?

09:02:48 19 ANSWER: Yeah, that's about right.

09:02:50 20 QUESTION: And around six of those people are the

09:02:52 21 programmers who write the source code for Clash of Clans?

09:02:56 22 ANSWER: Yes, correct.

09:02:58 23 QUESTION: Now -- but you don't have any training

09:03:01 24 or expertise in computer science, do you?

09:03:03 25 ANSWER: No, I don't.

09:03:04 1           QUESTION: And you don't personally write source  
09:03:08 2 code?  
  
09:03:08 3           ANSWER: No.  
  
09:03:10 4           QUESTION: And you don't read source code either?  
09:03:12 5           ANSWER: No.  
  
09:03:12 6           QUESTION: So you're not involved in reviewing the  
09:03:15 7 source code that the programmers write on the Clash of  
09:03:18 8 Clans team?  
  
09:03:18 9           ANSWER: No, I'm not.  
  
09:03:19 10          QUESTION: And you joined the company about four  
09:03:23 11 years ago?  
  
09:03:24 12          ANSWER: Yeah, that's about right.  
  
09:03:26 13          QUESTION: 2016, I think you said?  
  
09:03:28 14          ANSWER: Yeah. I think it was --  
  
09:03:32 15          QUESTION: The layout editor feature was already  
09:03:34 16 in place in Clash of Clans before you joined the company,  
09:03:36 17 right?  
  
09:03:36 18          ANSWER: Not sure.  
  
09:03:42 19          QUESTION: Not sure? Okay.  
  
09:03:43 20          Well, it was already in place in Clash of Clans  
09:03:46 21 before you started working on Clash of Clans, wasn't it?  
  
09:03:49 22          ANSWER: Yes, I think so, yes.  
  
09:03:51 23          QUESTION: And so you were not involved in the  
09:03:54 24 decision to introduce the layout editor feature in Clash of  
09:03:57 25 Clans, were you?

09:03:58 1 ANSWER: I was not.

09:03:58 2 QUESTION: All right. And you talked a little bit

09:04:01 3 on direct about the copy layout feature and why it was

09:04:04 4 introduced. Do you recall that?

09:04:06 5 ANSWER: Yes.

09:04:06 6 QUESTION: But you weren't involved in Supercell's

09:04:09 7 decision to introduce the copy layout feature either, were

09:04:12 8 you?

09:04:12 9 ANSWER: Not directly, no.

09:04:14 10 QUESTION: Okay. In fact, that was done by one of

09:04:22 11 the programmers, wasn't it?

09:04:23 12 ANSWER: Yes, correct.

09:04:27 13 QUESTION: Now, you testified that even though

09:04:29 14 Supercell could remove the copy layout feature, it hasn't

09:04:32 15 done it; is that right?

09:04:33 16 ANSWER: Yeah, correct.

09:04:35 17 QUESTION: And so, in other words, the feature has

09:04:37 18 been in the game and in the source code from June of 2018

09:04:42 19 when it was introduced up until today?

09:04:45 20 ANSWER: Yeah, correct.

09:04:47 21 QUESTION: And Supercell doesn't have any plans to

09:04:50 22 remove it either, does it?

09:04:52 23 ANSWER: Not at the moment, no.

09:04:54 24 QUESTION: Now, Supercell introduced the copy

09:04:57 25 layout feature to make players' lives more convenient,

09:05:02 1 right?

09:05:02 2 ANSWER: Correct.

09:05:04 3 QUESTION: Instead of having to build your town or  
09:05:07 4 village layouts yourself, you could share the burden with  
09:05:11 5 other people?

09:05:13 6 ANSWER: Yes, correct.

09:05:13 7 QUESTION: Are you familiar with an internal  
09:05:20 8 messaging -- well, strike that.

09:05:22 9 You showed the jury on your direct examination I  
09:05:25 10 think two primary things. One was a presentation you had  
09:05:29 11 given at a conference; is that correct?

09:05:31 12 ANSWER: Yeah.

09:05:31 13 QUESTION: And then the second was the release  
09:05:34 14 notes for the Town Hall 12 release, which included the copy  
09:05:41 15 layout feature, correct?

09:05:41 16 ANSWER: Correct.

09:05:41 17 QUESTION: And both of those are documents that  
09:05:43 18 Supercell has shared publicly with the world, correct?

09:05:47 19 ANSWER: Correct.

09:05:48 20 QUESTION: Now, are you aware of an internal  
09:05:51 21 messaging program that Supercell uses called Slack?

09:05:54 22 ANSWER: Yes.

09:05:55 23 QUESTION: And what is Slack?

09:05:56 24 ANSWER: Slack is a messaging system. I guess  
09:06:03 25 there's a lot of different kinds companies use, but Slack

09:06:06 1 is one -- like a tool to facilitate internal  
09:06:10 2 communications.

09:06:10 3 QUESTION: All right. And is there a channel on  
09:06:13 4 your Slack program for the Clash of Clans team to use?

09:06:18 5 ANSWER: Yes.

09:06:19 6 QUESTION: And -- and you're part of that channel  
09:06:21 7 as the lead of the team, I would take it?

09:06:24 8 ANSWER: Yes.

09:06:24 9 QUESTION: All right.

09:06:26 10 ATTORNEY: If we could please pull up Plaintiff's  
09:06:28 11 Exhibit 73.

09:06:29 12 QUESTION: All right. Do you see at the top here  
09:06:42 13 that this is a series of messages using the Slack messaging  
09:06:46 14 program from November of 2017?

09:06:51 15 ANSWER: Yes.

09:06:55 16 ATTORNEY: And if we could go to Page 5, please.

09:06:59 17 QUESTION: We see there that, in fact, you sent  
09:07:12 18 the message on this chain of messages, correct?

09:07:16 19 ANSWER: Correct.

09:07:17 20 QUESTION: All right.

09:07:18 21 ATTORNEY: Now, if you could go to Page 6, please.

09:07:31 22 If you can scroll down a little bit to the message from --

09:07:33 23 QUESTION: Do you see the name Marika Appel?

09:07:35 24 ANSWER: Yes.

09:07:35 25 QUESTION: All right. And Ms. Appel is one of the

09:07:37 1 members of your Clash of Clans team, correct?

09:07:39 2 ANSWER: Correct.

09:07:39 3 QUESTION: And she sent a message at this time in

09:07:41 4 November of 2017 that said: Copy layout, what do you guys

09:07:47 5 think?

09:07:47 6 Do you see that?

09:07:48 7 ANSWER: Yes.

09:07:48 8 QUESTION: And she referred to it as a quality of

09:07:52 9 life improvement?

09:07:52 10 ANSWER: Yes.

09:07:54 11 ATTORNEY: Now, if we could scroll down a little

09:07:57 12 bit more, please.

09:08:00 13 QUESTION: Do you see the message from Darian

09:08:03 14 Vorlick?

09:08:03 15 ANSWER: Yes.

09:08:03 16 QUESTION: And Mr. Vorlick is also a member of the

09:08:07 17 Clash of Clans team, right?

09:08:08 18 ANSWER: Correct, yes.

09:08:10 19 QUESTION: And he responded and said: It'd

09:08:13 20 definitely save a lot of time and definitely a big QoL

09:08:18 21 improvement.

09:08:19 22 Correct?

09:08:19 23 ANSWER: Correct.

09:08:20 24 QUESTION: And QoL means quality of life?

09:08:24 25 ANSWER: Yes, correct.

09:08:25 1           QUESTION: Referring to the players' quality of  
09:08:28 2 life, correct?

09:08:28 3           ANSWER: Yes, our quality of life feature.

09:08:30 4           QUESTION: Right.

09:08:33 5           ATTORNEY: All right. Now, if you could take that

09:08:35 6 down, please.

09:08:58 7           QUESTION: I'd like to show you Plaintiff's  
09:08:38 8 Exhibit 6 -- 606. Now, this is another series of Slack  
09:09:01 9 messages on the Clash of Clans team channel from November  
09:09:04 10 of 2017, correct?

09:09:06 11          ANSWER: Correct.

09:09:07 12          QUESTION: And just to put it in context, this is  
09:09:11 13 approximately seven months before Supercell decided to  
09:09:14 14 introduce the copy layout feature in Clash of Clans?

09:09:17 15          ANSWER: Uh-huh, correct.

09:09:19 16          QUESTION: All right.

09:09:21 17          ATTORNEY: If we could go to, please, on Page 2.

09:09:26 18 There is a message from an individual named Rauli. Go  
09:09:33 19 up -- go up a little bit, Ms. Moore. There we go. Right  
09:09:36 20 there is fine.

09:09:37 21          QUESTION: You see the name Rauli and a very long  
09:09:41 22 last name that begins with the letter L?

09:09:44 23          ANSWER: Yes.

09:09:44 24          QUESTION: All right. And he sent a message  
09:09:47 25 indicating a few lines down: Marika was asking if there

09:09:52 1 could be copy layouts option in the game. Do you see that?

09:09:54 2 ANSWER: Yes.

09:09:54 3 QUESTION: Now, this individual -- this gentlemen

09:09:59 4 is the person who actually programmed the copy layouts

09:10:02 5 feature, correct?

09:10:03 6 ANSWER: Yes, correct.

09:10:04 7 QUESTION: And he was involved in the decision to

09:10:07 8 introduce copy layouts, right?

09:10:09 9 ANSWER: Yes.

09:10:11 10 QUESTION: All right.

09:10:13 11 MR. MOORE: And if you -- if we scroll down a

09:10:18 12 little bit farther.

09:10:20 13 QUESTION: There is a message from an individual

09:10:22 14 named --

09:10:23 15 ATTORNEY: Please scroll down a little bit

09:10:25 16 farther. There we go, the very bottom of the page.

09:10:28 17 QUESTION: You see the name Stephan Demirdjian?

09:10:30 18 ANSWER: Yes.

09:10:30 19 QUESTION: Did I say that close to correct,

09:10:33 20 Mr. Joas?

09:10:33 21 ANSWER: Close enough.

09:10:34 22 QUESTION: All right. Thank you.

09:10:34 23 Now, Mr. Demirdjian responds to the earlier

09:10:39 24 message and says: I have been wishing for something like

09:10:43 25 this ever since I have been helping out. Correct?

09:10:46 1 ANSWER: Correct.

09:10:47 2 QUESTION: And he also says: The process of  
09:10:51 3 updating your base layout is such a pain in the, blank,  
09:10:55 4 once you have to redo everything if it doesn't make sense  
09:10:59 5 to just add stuff around it. Do you see that?

09:11:02 6 ANSWER: Yes.

09:11:02 7 QUESTION: And for the record we blurred out the  
09:11:07 8 word he used.

09:11:08 9 Now, Mr. Demirdjian is also a Supercell employee,  
09:11:13 10 correct?

09:11:13 11 ANSWER: Correct.

09:11:13 12 QUESTION: All right. And you mentioned -- on  
09:11:20 13 your direct testimony, do you recall mentioning that before  
09:11:20 14 copy layout, players could take a screenshot of another  
09:11:25 15 layout that they liked and simply replicate it in their own  
09:11:27 16 village?

09:11:27 17 ANSWER: Correct, yes.

09:11:28 18 QUESTION: And Mr. Demirdjian refers to that here  
09:11:31 19 where he says: Current process, I take screenshot of a  
09:11:35 20 layout I like while attacking.

09:11:37 21 Do you see that?

09:11:37 22 ANSWER: Yes.

09:11:39 23 ATTORNEY: And if we could scroll to the top of  
09:11:42 24 the next page, please.

09:11:46 25 QUESTION: He then says that he sends that through

09:11:50 1 Slack to his PC and puts it on the screen while doing the  
09:11:55 2 changes and reserves 20 to 30 minutes for it, right?  
09:11:57 3 ANSWER: Right.  
09:11:58 4 QUESTION: Okay. In other words, so he's saying  
09:11:59 5 that using the previous screenshot method would take him 20  
09:12:02 6 to 30 minutes to copy a layout that he liked, right?  
09:12:06 7 ANSWER: Yes, for him.  
09:12:08 8 QUESTION: Okay. Now, before you became Clash of  
09:12:12 9 Clans game lead, the person in that job was named Tommi  
09:12:21 10 Suvinen; is that right?  
09:12:21 11 ANSWER: Yes, correct.  
09:12:23 12 ATTORNEY: Could we please show Plaintiff's  
09:12:25 13 Exhibit 68?  
09:12:26 14 QUESTION: Now, this is a Slack message up from  
09:12:36 15 the Clash of Clans team from April of 2018. Do you see  
09:12:38 16 that?  
09:12:38 17 ANSWER: Yes.  
09:12:39 18 QUESTION: April 30th, I believe, correct?  
09:12:43 19 ANSWER: Yes.  
09:12:43 20 QUESTION: So this is a little more than one month  
09:12:47 21 before Supercell actually introduced the copy layout  
09:12:49 22 feature?  
09:12:50 23 ANSWER: Uh-huh.  
09:12:51 24 QUESTION: Is that correct?  
09:12:52 25 ANSWER: Yes. Yes, that's correct.

09:12:56 1           QUESTION: All right. Now, you testified on  
09:12:57 2 direct about the fact that Supercell did not monitor GREE's  
09:13:01 3 patents. Do you recall that?

09:13:02 4           ANSWER: Yes.

09:13:03 5           QUESTION: All right.

09:13:05 6           ATTORNEY: Can we go to the bottom of the page,  
09:13:18 7 please? A little farther. Go on to Page 2, please. I'm  
09:13:21 8 sorry.

09:13:26 9           QUESTION: Do you see the message from Mr. Suvinen  
09:13:31 10 at the bottom of Page 2?

09:13:32 11          ANSWER: Yes.

09:13:32 12          QUESTION: And he wrote: Copying  
09:13:35 13 templates/layouts might be part of the GREE patent even  
09:13:36 14 without the editor.

09:13:37 15          Do you see that?

09:13:38 16          ANSWER: Yes.

09:13:39 17          QUESTION: And that's the last message in this  
09:13:42 18 chain, correct?

09:13:43 19          ANSWER: Correct.

09:13:43 20          QUESTION: And a little more than one month later,  
09:13:45 21 Supercell introduced the copy layout feature into Clash of  
09:13:48 22 Clans, correct?

09:13:49 23          ANSWER: Correct.

09:13:51 24          QUESTION: All right. Now, you also talked on  
09:13:57 25 direct about the layout editor and how it was removed in

09:14:02 1 Japan. Do you recall that?

09:14:03 2 ANSWER: Yes.

09:14:03 3 QUESTION: All right. And the reason that  
09:14:07 4 Supercell removed that in Japan was that GREE and Supercell  
09:14:12 5 were involved in litigation in Japan regarding that  
09:14:15 6 feature, correct?

09:14:16 7 ANSWER: Correct.

09:14:18 8 QUESTION: All right.

09:14:19 9 ATTORNEY: Could we please display Plaintiff's  
09:14:24 10 Exhibit 129?

09:14:36 11 QUESTION: This is an email from the same  
09:14:39 12 Mr. Demirdjian to a group of people from November of 2017.

09:14:44 13 Do you see that?

09:14:45 14 ANSWER: Yes.

09:14:46 15 QUESTION: And the subject is: CoC weekly update.

09:14:51 16 Do you see that?

09:14:51 17 ANSWER: Yes, correct.

09:14:52 18 QUESTION: And you use CoC as shorthand for Clash  
09:14:53 19 of Clans, right?

09:14:53 20 ANSWER: Yes.

09:14:54 21 QUESTION: And do you see on the second line of  
09:14:58 22 recipients that your name is the second name over?

09:15:01 23 ANSWER: Yes.

09:15:01 24 QUESTION: Okay.

09:15:02 25 ATTORNEY: Now, if you could scroll down to the

09:15:04 1 bottom of the page, please.

09:15:06 2           QUESTION: Do you see that Mr. Demirdjian says,  
09:15:10 3 right near his signature there: Furthermore, we are  
09:15:13 4 impacted by lawsuit in Japan -- and then GREE in  
09:15:17 5 parentheses.

09:15:18 6           Do you see that?

09:15:18 7           ANSWER: Yes.

09:15:19 8           QUESTION: And then he says: The effects for us  
09:15:22 9 are extremely undesirable as we need to remove the edit  
09:15:28 10 mode and builder suggestions for the time being in Japan.

09:15:32 11          Correct?

09:15:32 12          ANSWER: Correct.

09:15:34 13          QUESTION: Now, are you aware that later --

09:15:38 14          ATTORNEY: You can take that down, Ms. Moore.

09:15:40 15          Thank you.

09:15:41 16          QUESTION: Are you aware that later on, Supercell  
09:15:44 17 was able to restore the layout editor feature for its  
09:15:48 18 players in Japan?

09:15:49 19          ANSWER: Yes.

09:15:50 20          QUESTION: And that was after the litigation with  
09:15:53 21 GREE ended?

09:15:54 22          ANSWER: Yes.

09:15:55 23          QUESTION: And after that happened, Supercell  
09:15:59 24 received messages that players were happy about the layout  
09:16:03 25 editor being available again, correct?

09:16:05 1 ANSWER: Yeah, we got some messages.

09:16:08 2 QUESTION: All right. And you got it in your

09:16:09 3 forums that you make available for players?

09:16:12 4 ANSWER: I think the forums and social media

09:16:17 5 channels, yes.

09:16:17 6 QUESTION: Okay. Like Twitter?

09:16:19 7 ANSWER: Yes.

09:16:21 8 QUESTION: Okay. All right. And is your

09:16:24 9 testimony you're not aware of any messages while the layout

09:16:29 10 editor was removed in which players were unhappy with that

09:16:33 11 decision by Supercell?

09:16:34 12 ANSWER: Not that I know of, no.

09:16:36 13 QUESTION: You're not aware of any? Okay.

09:16:38 14 All right. Now, you testified earlier about gems,

09:16:45 15 and that is the way that Supercell makes money in Clash of

09:16:48 16 Clans; is that correct?

09:16:49 17 ANSWER: Correct.

09:16:50 18 QUESTION: It makes money by selling gems to

09:16:53 19 players for real currency?

09:16:55 20 ANSWER: Yes.

09:16:55 21 QUESTION: All right. Now, Supercell doesn't

09:16:59 22 charge anyone to download the game, right?

09:17:02 23 ANSWER: No.

09:17:02 24 QUESTION: And selling these gems is its only

09:17:06 25 source of revenue for Clash of Clans?

09:17:08 1 ANSWER: Not the only source of revenue.

09:17:10 2 QUESTION: Okay. Selling virtual goods is the

09:17:17 3 only source of revenue; is that correct?

09:17:19 4 ANSWER: Yeah, broadly, I guess you could say so,

09:17:23 5 yes.

09:17:24 6 QUESTION: Okay. Well, isn't it true that the

09:17:25 7 main thing that you sell in Clash of Clans is gems?

09:17:28 8 ANSWER: Yes. I guess you could say that, yes.

09:17:31 9 QUESTION: All right. And if a player decides to

09:17:36 10 pay for -- well, let me strike that and back up.

09:17:39 11 Players can also earn gems in the game without

09:17:43 12 paying, correct?

09:17:44 13 ANSWER: Correct.

09:17:44 14 QUESTION: Or, on the other hand, they can decide

09:17:47 15 to pay for gems, correct?

09:17:49 16 ANSWER: Correct.

09:17:50 17 QUESTION: And if a player does decide to pay for

09:17:54 18 more gems, they can advance more quickly, compared with a

09:17:57 19 player that does not pay?

09:18:00 20 ANSWER: Correct.

09:18:00 21 QUESTION: Now, Clash of Clans has made the

09:18:02 22 largest amount of revenue for Supercell compared to any of

09:18:07 23 its other games, right?

09:18:09 24 ANSWER: Yeah.

09:18:10 25 QUESTION: But not all the players that play it

09:18:12 1 decide to pay; is that right?

09:18:15 2 ANSWER: Yes, correct.

09:18:16 3 QUESTION: In fact, it's something like 4 to  
09:18:19 4 5 percent of all users actually pay real money for gems; is  
09:18:24 5 that right?

09:18:24 6 ANSWER: Yeah, sounds about right.

09:18:28 7 QUESTION: Now, you're familiar with the term  
09:18:31 8 "engagement" as it's used in the gaming industry?

09:18:37 9 ANSWER: More or less.

09:18:38 10 QUESTION: Okay. And what engagement means is how  
09:18:41 11 active players are in the game; is that right?

09:18:43 12 ANSWER: Yes, it -- there's a lot -- quite a few  
09:18:48 13 definitions for it.

09:18:50 14 QUESTION: All right. It also refers to how much  
09:18:52 15 the players are enjoying the game; is that right?

09:18:55 16 ANSWER: Yeah.

09:18:56 17 QUESTION: And you would agree that there's a  
09:18:58 18 correlation between being engaged and spending in the game?

09:19:06 19 ANSWER: Yes.

09:19:07 20 QUESTION: In other words, the more engaged you  
09:19:09 21 are, the more likely you're able to spend real money in the  
09:19:13 22 game, correct?

09:19:16 23 ANSWER: Not exactly.

09:19:19 24 QUESTION: Okay. Do you recall that you were  
09:19:23 25 deposed in this case --

09:19:24 1 ANSWER: Yes.

09:19:25 2 QUESTION: -- several months ago?

09:19:27 3 ANSWER: Yes.

09:19:28 4 QUESTION: All right. And you had an opportunity

09:19:29 5 to review that transcript?

09:19:30 6 ANSWER: Yes.

09:19:31 7 QUESTION: All right.

09:19:32 8 ATTORNEY: Could we please pull up Mr. Joas's

09:19:35 9 deposition transcript and go to Page 116. 116.

09:19:56 10 All right. If you could scroll down, please, to

09:19:58 11 Lines 12 -- and show from 12 lines -- sorry, if you could

09:20:02 12 show from Line 12 to 19.

09:20:03 13 QUESTION: Do you see at your deposition I asked

09:20:05 14 you the question: Okay. Do you have any expectation as to

09:20:08 15 how that metric that I think is what you call session

09:20:12 16 length would differ if you were to compare paying players

09:20:16 17 and non-paying players?

09:20:18 18 And your answer was: I think there is a

09:20:22 19 correlation between being engaged and spending. So the

09:20:26 20 more engaged you are, the more likely you are to spend.

09:20:29 21 Does that refresh your recollection as to your

09:20:32 22 earlier testimony?

09:20:33 23 ANSWER: Yes.

09:20:33 24 QUESTION: All right. Thank you.

09:20:34 25 ATTORNEY: Take that down.

09:20:40 1           QUESTION: You believe that time spent playing in  
09:20:43 2 a game is a measure of engagement, correct?  
09:20:45 3           ANSWER: Yes.  
09:20:45 4           QUESTION: All right.  
09:20:52 5           ATTORNEY: Could we please show Plaintiff's  
09:20:55 6 Exhibit 458?  
09:21:00 7           QUESTION: Now, you said earlier that Mr. Suvinen  
09:21:05 8 was your predecessor as game lead, correct?  
09:21:08 9           ANSWER: Yes, correct.  
09:21:09 10          QUESTION: And this is a declaration that he  
09:21:11 11 provided in September of 2017, correct?  
09:21:13 12          ANSWER: It seems so, yes.  
09:21:14 13          QUESTION: All right. And that was around the  
09:21:16 14 time that you were transitioning into that job; is that  
09:21:19 15 right?  
09:21:19 16          ANSWER: Yes.  
09:21:21 17          QUESTION: Okay. And it -- he provided this  
09:21:23 18 declaration to the Tokyo District Court, correct?  
09:21:27 19          ANSWER: That's what it looks like, yes.  
09:21:29 20          QUESTION: All right.  
09:21:31 21          ATTORNEY: Now, if you could scroll down a little  
09:21:33 22 bit to show Paragraph 1, please?  
09:21:37 23          QUESTION: Do you see that he says in the second  
09:21:40 24 line: I have knowledge about the functionality and  
09:21:43 25 development of the layout editor feature in Clash of Clans?

09:21:48 1 ANSWER: Yes.

09:21:49 2 QUESTION: All right.

09:21:49 3 ATTORNEY: If we could go to Page 6, Paragraph 27,

09:21:54 4 please.

09:21:54 5 QUESTION: All right. This par -- in this

09:22:01 6 paragraph, Mr. Suvinen says: When a player edits a layout

09:22:01 7 in village edit mode, the command of each respective

09:22:09 8 edit -- and I'll skip the parenthetical -- are directly

09:22:12 9 sent to Supercell's game servers each time the player

09:22:16 10 places, moves, or removes the building.

09:22:19 11 That's what he said in the declaration?

09:22:21 12 ANSWER: Yes.

09:22:23 13 ATTORNEY: If we could go, please, to Page -- to

09:22:26 14 Paragraph, I'm sorry, Paragraph 36, which is on Page 7.

09:22:29 15 QUESTION: All right. Now, in this paragraph, do

09:22:41 16 you see the statement that Mr. Suvinen makes four lines

09:22:45 17 down that reads: The players' game session is always

09:22:49 18 running simultaneously on the device and on the game

09:22:52 19 server?

09:22:53 20 ANSWER: Yes.

09:22:56 21 QUESTION: All right.

09:22:58 22 ATTORNEY: If we could go to Paragraph 38, please.

09:23:03 23 QUESTION: In this paragraph, Mr. Suvinen says:

09:23:06 24 No data is stored on the client device. Persistent storage

09:23:10 25 for the game data, including the layout editor data, is

09:23:14 1 only stored on the game servers.

09:23:16 2 Do you see that?

09:23:17 3 ANSWER: Yes.

09:23:17 4 QUESTION: And then in Paragraph 39, he says:

09:23:20 5 While the game is running on the device, the state of the

09:23:23 6 application is kept in the runtime memory of the device.

09:23:26 7 Is that what he said?

09:23:27 8 ANSWER: Yes.

09:23:27 9 QUESTION: All right. And, to the best of your

09:23:30 10 knowledge, are all of these statements in the declaration

09:23:33 11 still true as of today for Clash of Clans?

09:23:36 12 ANSWER: I can't say.

09:23:42 13 QUESTION: Okay.

09:23:45 14 ATTORNEY: That's all the questions I have. I

09:23:47 15 would pass the witness. Thank you.

09:23:48 16 QUESTION: Mr. Joas, can you explain to the jury

09:23:51 17 again what quality of life features are?

09:23:52 18 ANSWER: Yes. Sure. Quality of life features are

09:23:54 19 things that usually players request. They're things that

09:23:58 20 we do for the convenience of the players in the game.

09:24:00 21 QUESTION: Do quality of life features cause

09:24:03 22 people to want to play Clash of Clans?

09:24:05 23 ANSWER: No, I wouldn't say so.

09:24:09 24 QUESTION: What, if any, quality of life features

09:24:11 25 cause players to spend more money?

09:24:13 1 ANSWER: I don't think any --

09:24:15 2 ATTORNEY: Objection, leading.

09:24:17 3 ANSWER: -- quality of life features cause players

09:24:23 4 to spend more money.

09:24:24 5 QUESTION: What impact on revenue do quality of

09:24:30 6 life features have in Clash of Clans?

09:24:31 7 ANSWER: Very little I would say.

09:24:32 8 QUESTION: And what impact do quality of life

09:24:34 9 features have on whether players begin playing Clash of

09:24:39 10 Clans?

09:24:39 11 ANSWER: I don't think anyone begins playing Clash

09:24:45 12 of Clans because of quality of life features.

09:24:46 13 QUESTION: And what impact do quality of life

09:24:49 14 features like copy layout have on players buying gems?

09:24:55 15 ANSWER: I don't think there's any connection. I

09:24:58 16 don't think copy layout actually contributes to gem sales

09:25:00 17 at all.

09:25:01 18 QUESTION: During your cross-examination, you

09:25:03 19 looked at an exhibit, Plaintiff's Exhibit 068. I'd like to

09:25:08 20 show that document to you again.

09:25:11 21 And at the top of exhibit PX-068, what -- what

09:25:20 22 date does this -- did this chat take place?

09:25:23 23 ANSWER: April 30th, 2018.

09:25:25 24 QUESTION: And what was going on between GREE and

09:25:28 25 Supercell at that time?

09:25:32 1 ANSWER: I'm not sure. I guess -- yeah.

09:25:39 2 QUESTION: Sorry, go ahead.

09:25:40 3 ANSWER: I guess we -- we were dealing with the

09:25:43 4 Japanese lawsuit at that time.

09:25:48 5 ATTORNEY: No further questions.

09:25:51 6 (Videoclip ends.)

09:25:52 7 THE COURT: Does that complete this witness by

09:25:54 8 deposition?

09:25:54 9 MR. SACKSTEDER: It does, Your Honor. And I have

09:25:56 10 some exhibits that were used in the direct and redirect

09:26:00 11 portion of the deposition.

09:26:01 12 THE COURT: If you'd like to announce those at

09:26:04 13 this time, that would be fine.

09:26:05 14 MR. SACKSTEDER: Thank you, Your Honor.

09:26:06 15 PX-33, PX-159, PX-446, and in redirect PX-68.

09:26:13 16 THE COURT: All right. Call your next witness,

09:26:15 17 Mr. Sacksteder.

09:26:16 18 MR. SACKSTEDER: Supercell calls Masaki Fujimoto,

09:26:25 19 who is a corporate representative of GREE.

09:26:27 20 THE COURT: By deposition?

09:26:27 21 MR. SACKSTEDER: Yes.

09:26:28 22 THE COURT: Please proceed.

09:26:29 23 (Videoclip played.)

09:26:30 24 QUESTION: Can you state your name for the record,

09:26:38 25 please?

09:26:38 1 ANSWER: Masaki Fujimoto.

09:26:43 2 QUESTION: Where do you live?

09:26:51 3 ANSWER: Japan.

09:26:51 4 QUESTION: Where in Japan?

09:26:52 5 ANSWER: Tokyo.

09:26:53 6 QUESTION: What do you do for a living?

09:27:00 7 ANSWER: I'm a director at GREE, Incorporated.

09:27:07 8 QUESTION: What does it mean to be a director at

09:27:09 9 GREE, Incorporated?

09:27:12 10 ANSWER: I'm a director selected at the

09:27:41 11 shareholders' meeting, and I am a director governed by the

09:27:48 12 Japanese company act -- company act.

09:27:52 13 QUESTION: By director, you mean you are a member

09:27:55 14 of the board of directors?

09:27:56 15 ANSWER: I'm a member of the board of directors.

09:27:57 16 QUESTION: Do you hold any other positions with

09:27:59 17 GREE?

09:27:59 18 ANSWER: I hold the position of CTO, and I also

09:28:26 19 hold the position of general manager of development.

09:28:28 20 QUESTION: CTO means chief technology officer?

09:28:33 21 ANSWER: Yes.

09:28:33 22 QUESTION: Have you ever had responsibility

09:28:38 23 yourself for developing any specific games at GREE?

09:28:49 24 ANSWER: 15 years is a long time, so I can't say

09:29:24 25 that I'm absolutely correct in saying this, but I don't

09:29:27 1 think so.

09:29:28 2           QUESTION: In Exhibit 27, which you have in front

09:29:32 3 of you, the title of the invention or the provisional title

09:29:36 4 is Battle System with Cards Arranged in Palette, correct?

09:29:47 5           ANSWER: The -- the name of the invention is the

09:29:58 6 Battle System With Cards Arranged in a Palette, but there

09:30:03 7 is a -- it says provisional in brackets.

09:30:09 8           QUESTION: Can you turn to the page of Exhibit 27

09:30:13 9 that has the number 28105 at the bottom?

09:30:19 10          Do you see the section that says Other Remarks?

09:30:22 11          ANSWER: Yes.

09:30:23 12          QUESTION: It refers to inventors at GeePlus

09:30:33 13 Incorporated, correct?

09:30:34 14          ANSWER: Yes.

09:30:34 15          QUESTION: And then it names Yuji Okada, Takahiro

09:30:40 16 Mori, and Mitsuki Iwao. Do you see that?

09:30:44 17          ANSWER: I don't know if that's how you read these

09:30:55 18 names, but I see the names.

09:30:57 19          QUESTION: My question was, you made no effort to

09:31:01 20 find out what that contribution was, correct?

09:31:03 21          ANSWER: My understanding is that their

09:31:41 22 contribution is as written here.

09:31:43 23          QUESTION: Beyond what is written in the document,

09:31:45 24 you made no attempt to find out what specific elements of

09:31:49 25 the invention were contributed by any of the invention --

09:31:53 1 inventors, correct?

09:31:55 2 ANSWER: I think their contribution is as written  
09:32:27 3 here.

09:32:27 4 QUESTION: And there's no information at all in  
09:32:30 5 the document about the level of contribution of the  
09:32:32 6 inventors at GeePlus Incorporated, correct?

09:32:40 7 ANSWER: At this moment in time, all I -- I can  
09:33:08 8 find are the names on the fifth page.

09:33:11 9 QUESTION: Going back to Exhibit 27, is it your  
09:33:22 10 understanding that the invention that is disclosed in  
09:33:25 11 Exhibit 27 was included in the One Piece Adventure Log  
09:33:32 12 game?

09:33:32 13 ANSWER: My understanding is that this invention  
09:34:23 14 was conceived during the -- the development of the process  
09:34:26 15 of One Piece Adventure Log.

09:34:31 16 QUESTION: Is it your understanding that the  
09:34:34 17 invention was actually employed by One Piece Adventure Log?

09:34:53 18 ANSWER: If my memory serves correct, I -- at the  
09:35:07 19 very least, I believe it was implemented or employed.

09:35:11 20 QUESTION: You mentioned earlier the Avatar  
09:35:14 21 service. What is that?

09:35:16 22 ANSWER: Well, first of all, there is GREE, the  
09:36:30 23 social networking service, and on that service, user --  
09:36:36 24 users can create profiles.

09:36:38 25 And unlike a picture of your face used --

09:36:41 1 typically used on Facebook, GREE, the social networking  
09:36:45 2 service, allows users to use graphics and also allows use  
09:36:54 3 of customized clothing and items.

09:36:59 4 And you can basically create your own Avatar to  
09:37:03 5 communicate with the other users. And this is one of the  
09:37:07 6 major features of the social -- the social networking  
09:37:11 7 service.

09:37:11 8 QUESTION: Do you consider the Avatar -- the  
09:37:13 9 Avatar service to be a game?

09:37:15 10 ANSWER: That depends on who you ask. You may get  
09:37:57 11 different answers.

09:37:59 12 QUESTION: I'm asking you.

09:38:00 13 ANSWER: You can say it a game -- you can say it's  
09:38:11 14 a game. At the same time, you can say it's not a game.

09:38:16 15 QUESTION: You're the chief technology officer of  
09:38:19 16 GREE, correct?

09:38:21 17 ANSWER: Yes.

09:38:22 18 QUESTION: Is there any description in Exhibit 27  
09:38:25 19 of any technological implementation of the invention that's  
09:38:30 20 described in the exhibit?

09:38:31 21 ANSWER: From a technological perspective, No. 4  
09:40:11 22 on Page 2 of this document, there is a mention of the word  
09:40:16 23 "server." That's about it.

09:40:18 24 QUESTION: The way that a game is played depends  
09:40:22 25 on the rules for the game, correct?

09:40:28 1 ANSWER: The word "game" has a very broad meaning.

09:41:19 2 There are -- there may be players who play the game by

09:41:24 3 breaking the rule. So the meaning is too broad. I don't

09:41:29 4 know.

09:41:29 5 QUESTION: You don't know whether the way a game

09:41:34 6 is played is determined by the rules of the game? Is that

09:41:41 7 your testimony?

09:41:41 8 ANSWER: There are -- excuse me.

09:42:47 9 In some games, you play by following the rules.

09:43:00 10 But if you interpret the word "game" in -- in a broad

09:43:12 11 sense, because it has a broad meaning to it, there are

09:43:18 12 games where you play by not following the rules.

09:43:20 13 QUESTION: The invention that's described in

09:43:26 14 Exhibit 27 was developed for use in the -- the One Piece

09:43:34 15 game, correct?

09:43:37 16 ANSWER: I'm certain that a member submitted that

09:44:01 17 during the development phase.

09:44:02 18 QUESTION: And the invention in Exhibit 27

09:44:09 19 establishes some of the rules by which the One Piece game

09:44:14 20 is played, correct?

09:44:15 21 ANSWER: I believe there was an implementation to

09:44:49 22 the One Piece -- the game that reflected this idea.

09:44:52 23 QUESTION: And that implementation establishes the

09:44:56 24 method in which the game operates, correct?

09:45:01 25 ANSWER: If by "implementation" you mean source

09:45:28 1 code, then the game should operate according to that --  
09:45:31 2 exactly according to that.

09:45:32 3 QUESTION: Exhibit 29 is an invention disclosure,  
09:45:37 4 correct?

09:45:37 5 ANSWER: That depends on how you define the term  
09:46:18 6 "disclosure." But when I saw this document for the first  
09:46:23 7 time, it was just the patent application sheet.

09:46:26 8 QUESTION: The invention was developed for a game  
09:46:30 9 that had the code name SUSANOO, correct?

09:46:37 10 ANSWER: This was an idea that was conceived  
09:47:00 11 during the development of SUSANOO, and that is what is  
09:47:05 12 described in this document.

09:47:06 13 QUESTION: And that game is a code name for the  
09:47:11 14 Tenmega game, correct?

09:47:13 15 ANSWER: Are you asking me the -- the code name  
09:47:27 16 for Tenmega was SUSANOO?

09:47:32 17 QUESTION: Sure.

09:47:34 18 ANSWER: In that case, yes.

09:47:35 19 QUESTION: The first page of Exhibit 29 refers to  
09:47:38 20 a game called Clash of Clans. Do you see that?

09:47:42 21 ANSWER: Yes.

09:47:42 22 QUESTION: This document was created and sealed in  
09:47:57 23 August and September of 2013. Were you aware of Clash of  
09:48:03 24 Clash at that time?

09:48:03 25 ANSWER: I know of its name, and this was seven

09:48:50 1 years ago, but I read this document. So I must have known  
09:48:56 2 of it.

09:48:58 3 QUESTION: The Tenmega game was available to the  
09:49:02 4 public for less than a year, correct?

09:49:05 5 ANSWER: I don't have information regarding the  
09:49:29 6 period of its public availability. And, however, my sense  
09:49:37 7 is, yes, it's around that.

09:49:41 8 (Videoclip ends.)

09:49:42 9 THE COURT: Does that complete this witness by  
09:49:44 10 deposition?

09:49:45 11 MR. SACKSTEDER: Not quite, Your Honor, I don't  
09:49:48 12 think.

09:49:48 13 THE COURT: I'm sorry. Let's continue then.

09:49:50 14 (Videoclip played.)

09:49:51 15 QUESTION: One Piece Adventure Log is the only  
09:49:54 16 GREE game that has ever included the invention that's  
09:49:58 17 described in Exhibit 27, correct?

09:50:00 18 ANSWER: As far as I know now, I think so.

09:50:29 19 QUESTION: One Piece Adventure Log is no longer  
09:50:32 20 publicly available, correct?

09:50:34 21 ANSWER: That should be right.

09:50:42 22 QUESTION: Was One Piece Adventure Log ever  
09:50:45 23 distributed outside Japan?

09:50:47 24 ANSWER: As far as I know, we never intended to  
09:51:49 25 release this outside of Japan. And, however, this product

09:51:53 1 was accessible from the Internet -- from the Internet  
09:51:58 2 browser. So, technically speaking, people outside of Japan  
09:52:02 3 could have played this.

09:52:04 4 (Videoclip ends.)

09:52:09 5 MR. SACKSTEDER: I believe that is it now,  
09:52:12 6 Your Honor.

09:52:12 7 THE COURT: I'm hesitant to ask again.

09:52:14 8 MR. SACKSTEDER: I know. Only two -- two takes  
09:52:17 9 were made, so I think that's it.

09:52:18 10 THE COURT: Okay.

09:52:19 11 MR. SACKSTEDER: I have a couple notes on the --  
09:52:21 12 on the exhibits.

09:52:22 13 THE COURT: All right. You can --

09:52:23 14 MR. SACKSTEDER: The exhibits that were used  
09:52:24 15 during the deposition were DX-27 and 29, and they're  
09:52:28 16 actually DX-27A and 27B and 29A and 29B. The As are the  
09:52:35 17 Japanese original versions and the Bs are the certified  
09:52:41 18 English translations.

09:52:43 19 THE COURT: All right. Thank you, counsel.

09:52:44 20 Ladies and gentlemen of the jury, we're going to  
09:52:46 21 take this juncture to have a short recess. You may simply  
09:52:50 22 close your notebooks and leave them in your chairs.

09:52:52 23 Please remember all my instructions, including not  
09:52:54 24 to discuss the case among yourselves. Use this opportunity  
09:52:58 25 to stretch your legs, get a drink of water, and we'll

09:53:01 1 continue with the next defense witness after you return.

09:53:05 2 The jury is excused for recess.

09:53:07 3 COURT SECURITY OFFICER: All rise.

09:53:08 4 (Jury out.)

09:53:32 5 THE COURT: Counsel, take about five or six

09:53:34 6 minutes, and then meet me in chambers, and we'll pick up

09:53:38 7 where we left off with the demonstrative disputes and other

09:53:41 8 matters.

09:53:41 9 Court stands in recess.

09:53:44 10 COURT SECURITY OFFICER: All rise.

09:56:39 11 (Recess.)

10:32:23 12 (Jury out.)

10:32:24 13 COURT SECURITY OFFICER: All rise.

10:32:24 14 THE COURT: Be seated, please.

10:32:41 15 Mr. Moore, do I understand you have a proffer to

10:32:47 16 offer?

10:32:48 17 MR. MOORE: We do, Your Honor. Mr. Morlock would

10:32:50 18 be happy to make --

10:32:51 19 THE COURT: Go to the podium, and let's get that

10:32:55 20 recited, please.

10:33:01 21 MR. MORLOCK: Thank you, Your Honor. Michael

10:33:01 22 Morlock.

10:33:04 23 Per our discussion in chambers, Plaintiff objects

10:33:07 24 to Dr. Claypool's testimony regarding Claim 1 for two

10:33:11 25 reasons.

10:33:12 1           One, it is inconsistent with the Court's  
10:33:14 2 construction of moving, which excluded real-time, and also  
10:33:18 3 because he disavowed this argument during his deposition.

10:33:22 4           THE COURT: All right. That was thoroughly  
10:33:25 5 discussed in chambers.

10:33:27 6           For the record, the Court's overruled that  
10:33:30 7 objection, although I will note as an aside, Supercell has  
10:33:34 8 made much in the record about the prejudice they've  
10:33:36 9 suffered by not being able to bring their witnesses live to  
10:33:40 10 trial. In this particular case, it seems to have worked  
10:33:43 11 very much to their benefit.

10:33:44 12           Nonetheless, the objections are overruled.

10:33:48 13           MR. MORLOCK: Thank you, Your Honor.

10:33:50 14           THE COURT: All right. Let's bring in the jury,  
10:33:53 15 please.

10:33:53 16           COURT SECURITY OFFICER: All rise.

10:34:18 17           (Jury in.)

10:34:20 18           THE COURT: Thank you for your patience, ladies  
10:34:22 19 and gentlemen. Please be seated.

10:34:25 20           Defendant, call your next witness.

10:34:30 21           MR. KOHM: Your Honor, Supercell calls Mr. Stacy  
10:34:33 22 Friedman.

10:34:33 23           THE COURT: All right. Mr. Friedman, if you'd  
10:34:35 24 come forward and be sworn, please.

10:34:39 25           (Witness sworn.)

10:34:55 1 THE COURT: Please come around, sir, have a seat  
10:34:57 2 at the witness stand.

10:34:59 3 MR. KOHM: Your Honor, may we approach with  
10:35:02 4 binders?

10:35:02 5 THE COURT: You may.

10:35:04 6 All right. Mr. Kohm, you may proceed with your  
10:35:35 7 direct examination.

10:35:36 8 MR. KOHM: Thank you, Your Honor.

10:35:36 9 STACY FRIEDMAN, DEFENDANT'S WITNESS, SWORN

10:35:36 10 DIRECT EXAMINATION

10:35:37 11 BY MR. KOHM:

10:35:37 12 Q. Mr. Friedman, would you please state your name for the  
10:35:42 13 record and spell it?

10:35:42 14 A. Yes, my name is Stacy Friedman, S-t-a-c-y  
10:35:49 15 F-r-i-e-d-m-a-n.

10:35:49 16 Q. And Mr. Friedman, what do you do for a living?

10:35:52 17 A. I am a small business owner, I'm an entrepreneur, an  
10:35:57 18 inventor, gaming consultant. I run a company called  
10:36:00 19 Olympian Gaming LLC --

10:36:01 20 THE COURT: Mr. Friedman, pull that microphone a  
10:36:03 21 little closer to you, please.

10:36:04 22 THE WITNESS: Yes, Your Honor.

10:36:05 23 THE COURT: Thank you.

10:36:06 24 Continue, please.

10:36:08 25 Q. (By Mr. Kohm) Mr. Friedman, have you been retained by

10:36:11 1 Supercell in this case?

10:36:11 2 A. I have.

10:36:12 3 Q. And what were you retained to do?

10:36:14 4 A. I was retained to perform an analysis on two U.S.  
10:36:19 5 patents, Nos. 9,604,137 and 9,956,481, in regard to whether  
10:36:28 6 they are valid and whether they are infringed by the Clash  
10:36:32 7 Royale game.

10:36:32 8 Q. Mr. Friedman, are you being compensated for your time  
10:36:36 9 here?

10:36:36 10 A. I am, yes.

10:36:38 11 Q. And what are you being -- what rate are you being  
10:36:42 12 compensated at?

10:36:43 13 A. \$575.00 an hour.

10:36:45 14 THE COURT: Mr. Friedman, you're going to need to  
10:36:46 15 either speak up or raise the microphone. It doesn't do any  
10:36:51 16 good if the jury doesn't hear you.

10:36:52 17 THE WITNESS: I apologize. Is this better?

10:36:54 18 THE COURT: That's better.

10:36:54 19 All right. Let's continue.

10:36:56 20 Q. (By Mr. Kohm) Is that your normal rate?

10:36:58 21 A. It is, yes.

10:36:59 22 Q. And, Mr. Friedman, do you have any stake in the outcome  
10:37:03 23 of this litigation?

10:37:05 24 A. No, not at all.

10:37:06 25 Q. I want to talk a little bit about your background.

10:37:13 1 How -- do you have experience in the area of game design?

10:37:15 2 A. Oh, yes. 22 years professionally in the gaming  
10:37:20 3 industry.

10:37:20 4 Q. Prior to actually getting involved in the gaming  
10:37:29 5 industry, did you obtain any degrees?

10:37:32 6 A. Yes, I hold a computer science degree from Harvard.

10:37:36 7 Q. And what year did you do that?

10:37:38 8 A. Graduated in 1996.

10:37:39 9 Q. And could you please briefly summarize your employment  
10:37:44 10 history after you graduated?

10:37:46 11 A. Sure. I -- after I graduated, I went to the Bay Area.  
10:37:50 12 I worked -- I was a software engineer during the dot-com  
10:37:54 13 bubble, I worked at Oracle, I worked at a handful of small  
10:38:00 14 start-ups.

10:38:00 15 In 1998, I joined a slot machine company, and  
10:38:05 16 worked for them as a mathematician and software engineer.

10:38:09 17 Q. I'm sorry. I'm not sure you said it before, I want to  
10:38:11 18 make sure, what was your degree in?

10:38:13 19 A. Computer science.

10:38:14 20 Q. Okay. You said you joined a slot gaming -- company.  
10:38:17 21 What did you do there?

10:38:18 22 A. Yes, I was what's called a game designer. In the  
10:38:21 23 casino world, that means designing not only the game rules  
10:38:24 24 but also looking at the mathematics and being able to  
10:38:27 25 understand whether the house has the edge or how much the

10:38:31 1 house has the edge.

10:38:32 2 Q. Did that involve any electronic games?

10:38:37 3 A. Oh, yes, all of our games were electronic, video slot

10:38:42 4 machine games.

10:38:43 5 Q. Did that work involve any software development?

10:38:45 6 A. Yes.

10:38:45 7 Q. How long have you been developing software?

10:38:47 8 A. Professionally, since I got out of college. I was

10:38:53 9 coding long before that.

10:38:55 10 Q. And when you say coding, what do you mean?

10:38:57 11 A. Software development. Sorry, coding, writing code,

10:39:02 12 developing software.

10:39:03 13 Q. What type of code?

10:39:04 14 A. Well, I mean, I've written in a number of different

10:39:08 15 languages, I've used Java, I've used C, I've used C++, C#,

10:39:15 16 a handful of scripting languages. The projects I've worked

10:39:18 17 on range from enterprise software, to casino games, to

10:39:20 18 mathematical analysis.

10:39:22 19 Q. And the various -- various types of code you listed, is

10:39:26 20 that all source code?

10:39:29 21 A. The first part, yeah, those are programming languages,

10:39:31 22 yes.

10:39:32 23 Q. Are you a named inventor on any issued or pending

10:39:42 24 patents?

10:39:43 25 A. I am, yes.

10:39:44 1 Q. Do you have a sense of how many?

10:39:47 2 A. It's approximately 40 issued and/or pending patents.

10:39:55 3 MR. KOHM: Your Honor, at this time, I'd like to  
10:39:57 4 offer Mr. Friedman as a technical expert in the field of  
10:39:59 5 video game design and social gaming and software  
10:40:02 6 development in this matter.

10:40:03 7 THE COURT: Is there objection?

10:40:04 8 MR. MOORE: No objection, Your Honor.

10:40:06 9 THE COURT: Then, without objection, the Court  
10:40:07 10 will recognize this witness as an expert in those  
10:40:10 11 particular fields.

10:40:11 12 You may continue.

10:40:12 13 MR. KOHM: Thank you, Your Honor.

10:40:13 14 Q. (By Mr. Kohm) Mr. Friedman, a little background.

10:40:17 15 First, what is source code?

10:40:18 16 A. Source code is what software developers write. It's  
10:40:25 17 usually -- it's a little cryptic, but it's readable by a  
10:40:29 18 person because it has to be writable by a person. And what  
10:40:32 19 happens is you take the source code in whatever language,  
10:40:35 20 and then typically you'll either interpret it or compile it  
10:40:37 21 into what's called executable code, and that's what runs on  
10:40:41 22 a computer.

10:40:41 23 Q. And when reading this code, do you read it from front  
10:40:45 24 to back like you would a book?

10:40:47 25 A. No, not at all.

10:40:48 1 Q. How do you read it?

10:40:49 2 A. So it depends on the language. The language of the  
10:40:54 3 code that I reviewed for this case was written in C++. C++  
10:40:59 4 is what's called an object-oriented programming language.

10:41:02 5         What that means is code is grouped into functions  
10:41:05 6 that are grouped into larger objects. And it's those  
10:41:09 7 objects that represent things in the game. For example, a  
10:41:15 8 button for casting a spell or a creature for -- for running  
10:41:18 9 around on the battle field.

10:41:20 10         And in order to truly understand how the code  
10:41:22 11 works when it's running, you have to take a look at the  
10:41:25 12 functions in the order that they're calling one another.

10:41:28 13         So it's sort of like -- rather than reading it  
10:41:32 14 like a book, you would read it like a -- choose your own  
10:41:35 15 adventure book. Each function tells you only so far, in  
10:41:39 16 that you get to the end of the page, and it says, well,  
10:41:39 17 jump over here, jump back there.

10:41:41 18         So in order to understand how the code flows when  
10:41:44 19 it's running, you have to trace through the calls each  
10:41:47 20 function makes to one another.

10:41:49 21 Q. Turning now to this case, Mr. Friedman, you were in the  
10:42:03 22 courtroom when Dr. Akl offered his opinions?

10:42:05 23 A. I was, yes.

10:42:06 24 Q. Did you agree with those opinions?

10:42:07 25 A. No.

10:42:08 1 Q. What is your opinion regarding the '137 and '481  
10:42:15 2 patents?

10:42:15 3 A. My opinion on the '137 and '481, first of all, it's my  
10:42:21 4 opinion that both of those patents are invalid; and,  
10:42:25 5 second, it's my opinion that both of those patents are not  
10:42:29 6 infringed by the Clash Royale game.

10:42:31 7 Q. And how did you come to those opinions?

10:42:33 8 A. Well, so for the first one, the -- the invalidity side,  
10:42:38 9 I reviewed not only the patents themselves, but I reviewed  
10:42:42 10 some prior art. I relied on my knowledge and background as  
10:42:46 11 someone in the gaming space, and -- and I compared what was  
10:42:52 12 alleged to be invented by the patents with what had existed  
10:42:56 13 previously and what was -- what was described in the prior  
10:42:59 14 art.

10:42:59 15 For the non-infringement side, I compared the  
10:43:06 16 claims as they've been construed to the behavior of the  
10:43:09 17 Clash Royale game, and that includes reviewing the behavior  
10:43:15 18 of the game through playing it and videos, and that sort of  
10:43:19 19 hands-on analysis, and then I also read through the source  
10:43:23 20 code and confirmed that what you see is actually reflected  
10:43:26 21 in -- in the behavior within the code.

10:43:30 22 Q. You mentioned the term prior art. Would you please  
10:43:34 23 tell us what that means?

10:43:36 24 A. Yes. So prior art is basically anything that existed  
10:43:41 25 in the public -- in other words, that the public would have

10:43:45 1 known about prior to the date of the invention of the  
10:43:49 2 patents.

10:43:49 3 And I think the date that we were looking at, if I  
10:43:58 4 recall -- I actually can't find the date that we rely -- I  
10:44:04 5 think it was somewhere in 2013, but I can't remember what  
10:44:08 6 the priority date is. But I know that was in -- in the  
10:44:10 7 analysis. I just can't see it on the paper right now.

10:44:15 8 Q. We'll -- we'll come back to that.

10:44:17 9 A. Okay.

10:44:17 10 Q. You -- you also used the term "as construed." Whose  
10:44:24 11 constructions were you using?

10:44:25 12 A. Oh, I was using the Court's constructions.

10:44:27 13 Q. And your opinions adopt those constructions?

10:44:30 14 A. Yes, they do.

10:44:40 15 MR. KOHM: Mr. Smith, can we pull up DX-51 for a  
10:44:43 16 moment? DX-51.

10:45:24 17 Q. (By Mr. Kohm) And just to make sure we're talking  
10:45:26 18 about the same thing, Mr. Friedman, is this the '137 patent  
10:45:30 19 to which you referred?

10:45:31 20 A. Yes, that's the first page.

10:45:38 21 MR. KOHM: Okay. You can take it down, Mr. Smith.

10:45:40 22 Thank you.

10:45:41 23 Q. (By Mr. Kohm) All right. I want to now turn to Clash  
10:45:47 24 Royale, the game.

10:45:48 25 A. Okay.

10:45:50 1 MR. KOHM: Mr. Smith, if you could pull up PX-150,  
10:45:57 2 and play it from 9 seconds to 20 seconds at half speed.

10:46:04 3 Q. (By Mr. Kohm) And I would ask you to give a  
10:46:06 4 description to the jury of the game mechanics that are  
10:46:08 5 taking place.

10:46:09 6 A. Sure. So we're going to play this at half speed  
10:46:12 7 because the game moves pretty quickly in real-time.

10:46:14 8 And what you're going to see is that the hand --  
10:46:18 9 the empty hand of cards -- actually I think that was at  
10:46:25 10 real speed. Maybe it's not.

10:46:26 11 What happened was the hand of cards was empty. It  
10:46:29 12 came up from the bottom. The Elixir bar was already half  
10:46:32 13 full and was growing. And then the finger came and dragged  
10:46:36 14 across, picking a card, dropping it into the field, and --  
10:46:39 15 and so let's -- let's go back and do a couple of those  
10:46:41 16 sections again.

10:46:42 17 Let's start it around 10 seconds, I think. Yeah,  
10:46:46 18 that's perfect.

10:46:47 19 So there you could see -- you've already got an  
10:46:50 20 empty hand of cards and the Elixir bar is growing and the  
10:46:53 21 cards swoop in from the left.

10:46:55 22 And pause right there.

10:46:56 23 And so what's going to happen now is the finger is  
10:46:59 24 going to drag a card from the hand of cards and drop it  
10:47:03 25 into the battlefield.

10:47:04 1           And now I'd like to slow this down a lot further  
10:47:07 2 because this game does move pretty quickly.

10:47:09 3           What you're going to see is the finger will drop  
10:47:13 4 the card into the battlefield. And then a target -- see  
10:47:17 5 the -- underneath on the -- the right side, underneath the  
10:47:20 6 Mega Knight, there's a little square. And that square is  
10:47:24 7 what's called a spell target indicator. Each of these --  
10:47:27 8 these cards internally, they're called spells.

10:47:31 9           So you're casting a spell. And that square is  
10:47:34 10 where the card is going to show up. Now, when the finger  
10:47:37 11 lifts off the screen, there's -- that target is going to  
10:47:40 12 stay there for a little delay, and then the card -- or the  
10:47:44 13 character -- the Mega Knight in this case, will drop on to  
10:47:51 14 the battlefield.

10:47:51 15           So during this whole time, you've got this Elixir  
10:47:53 16 bar down at the bottom that represents how much magical  
10:47:57 17 energy you have. And -- and it's constantly growing. So  
10:48:00 18 you can see that throughout this entire process.

10:48:02 19           And now, the Mega Knight drops from the screen.  
10:48:09 20 There's a little clock. And after that clock expires, then  
10:48:12 21 he starts marching up the field and beating up the enemies.  
10:48:19 22 Q. All right. Thank you for that. I now want to turn to  
10:48:29 23 your opinions in this case.

10:48:32 24           MR. KOHM: If you could pull up Slide 3,  
10:48:34 25 Mr. Smith.

10:48:35 1 Q. (By Mr. Kohm) What is your opinion regarding  
10:48:41 2 non-infringement of the '137 and '481 patents?  
10:48:43 3 A. Yes, it's -- first of all, that there's a required  
10:48:47 4 sequence of steps in order for there to be infringement.  
10:48:49 5 And Clash Royale doesn't perform that sequence. Mainly,  
10:48:53 6 that selection comes before subtraction, and subtraction  
10:48:57 7 comes before addition.  
10:48:58 8 And, second, there's also a requirement -- and I'm  
10:49:01 9 reading from the claim now -- that the controller permits  
10:49:06 10 the player to select the game contents when the sum of the  
10:49:11 11 points of the player characters and/or the game content  
10:49:15 12 selected by the player is less than or equal to the upper  
10:49:17 13 limit.  
10:49:17 14 But in Clash Royale, the game actually permits the  
10:49:20 15 player to select the game contents when the Elixir cost is  
10:49:24 16 greater than the player's available amount of Elixir.  
10:49:29 17 So for both of those reasons, it's my opinion that  
10:49:33 18 Clash Royale does not infringe.  
10:49:34 19 MR. KOHM: Your Honor, at this time I would ask  
10:49:36 20 that we seal the courtroom. We're going to be getting into  
10:49:40 21 some technical details of the operation of the source code  
10:49:43 22 for Supercell and the mechanics of it.  
10:49:44 23 THE COURT: All right. At counsel's request, I'll  
10:49:47 24 order the courtroom sealed. Those present and not subject  
10:49:50 25 to the protective order that's been entered in this case

10:49:51 1 should exit the courtroom and remain outside until the  
10:49:54 2 courtroom is reopened and unsealed.

10:49:56 3 (Courtroom sealed.)

10:49:56 4 (This portion of the transcript is sealed and

10:49:56 5 filed under separate cover as

10:49:57 6 Sealed Portion No. 3.)

11:12:49 7 (Courtroom unsealed.)

11:12:50 8 MR. KOHM: Can I continue?

11:12:53 9 THE COURT: Wait a minute, counsel. Let's wait

11:12:55 10 until people get seated.

11:12:56 11 All right. The courtroom is unsealed.

11:12:58 12 You may now proceed.

11:13:00 13 MR. KOHM: Thank you, Your Honor.

11:13:01 14 Mr. Smith, if we could turn to Slide 5.

11:13:04 15 Q. (By Mr. Kohm) What is shown here, Mr. Friedman?

11:13:11 16 A. This is a -- sort of timeline sequence of the sequence  
11:13:15 17 of events that I depicted in the prior two flowcharts.

11:13:21 18 MR. KOHM: Will you please run it, Mr. Smith?

11:13:23 19 A. The arrow of time moves forward. That is from left to  
11:13:28 20 right. Addition is constantly -- addition of Elixir is  
11:13:31 21 constantly happening.

11:13:33 22 At one point, there's a phase where you're doing  
11:13:36 23 selection. That is the point in time where you're dragging  
11:13:38 24 your finger from the card in the hand to the battlefield  
11:13:41 25 and then letting it go.

11:13:42 1 And then later on, the subtraction and then card  
11:13:46 2 deployment occur. But the -- the real point here is that  
11:13:49 3 the addition of Elixir is happening constantly, including  
11:13:52 4 after selection and before subtraction.

11:13:58 5 MR. KOHM: And can we go to Slide 7, Mr. Smith?

11:14:02 6 Q. (By Mr. Kohm) And so what is your opinion,  
11:14:05 7 Mr. Friedman, regarding whether Clash Royale performs the  
11:14:11 8 selection and subtraction and addition sequence?

11:14:14 9 A. It does not perform it in that order as required by the  
11:14:18 10 construction. And so it's my opinion that Clash Royale  
11:14:20 11 does not infringe.

11:14:22 12 Q. Is there a dispute between you and Mr. Akl regarding  
11:14:27 13 the required sequence?

11:14:28 14 A. Not to my knowledge, no.

11:14:32 15 MR. KOHM: Go to Slide 8, please.

11:14:36 16 Q. (By Mr. Kohm) Do you recall Mr. Akl testifying  
11:14:40 17 regarding the sequence in this test -- in this trial?

11:14:42 18 A. I do.

11:14:46 19 MR. KOHM: And can we go to Slide 10, Mr. Smith?  
11:14:56 20 Just go to the end.

11:14:58 21 Q. (By Mr. Kohm) The labels you use in this slide, are  
11:15:10 22 those the labels that you're referring to of selection,  
11:15:17 23 subtraction, and addition in the patent?

11:15:18 24 A. That's correct.

11:15:23 25 Q. With respect to the conster -- I'm sorry, the loop we

11:15:26 1 were discussing earlier --

11:15:28 2 A. Yes.

11:15:28 3 Q. -- after a selection is made, where in this image would

11:15:36 4 that loop take place?

11:15:37 5 A. Right. The -- the image that -- that we've got on the

11:15:43 6 screen shows a blue bar for selection with an orange brace

11:15:48 7 underneath it.

11:15:49 8 Conceptually, the beginning of that brace is when

11:15:52 9 you first touch the card in the hand. In the end of that

11:15:56 10 brace, is when you let it go in the field. And at that

11:15:59 11 point, the player is done selecting the card because the

11:16:03 12 claim requires that the player do the selection.

11:16:07 13 And then after that, we go through that whole

11:16:09 14 process that we discussed. The game creates the -- first,

11:16:12 15 it checks to see whether there's enough Elixir. Then it

11:16:15 16 creates the message. Sends it to the server. And then it

11:16:20 17 goes back to the phone.

11:16:21 18 And during that time, addition is constantly

11:16:24 19 happening in that tick loop that we discussed.

11:16:27 20 MR. KOHM: If you go to Slide 12, Mr. Smith.

11:16:33 21 Q. (By Mr. Kohm) Which claims does your -- does your

11:16:38 22 opinion implicate?

11:16:39 23 A. This -- this opinion implicates all of the asserted

11:16:43 24 claims of both patents. It implicates Independent Claim 1

11:16:47 25 and 14 of the '137 patent and Independent Claim 1 of the

11:16:54 1 '481. And as a result, Dependent Claims 2 and 15 of the  
11:16:59 2 '137 patent and 4 and 5 of the '481. It's all of them.

11:17:04 3 MR. KOHM: Next slide, Mr. Smith.

11:17:07 4 Q. (By Mr. Kohm) And what is your opinion regarding  
11:17:15 5 the -- I think you called it the Future Play feature?

11:17:18 6 A. Yes. So we took a look at the  
11:17:23 7 hasEnoughManaForDelayedCast function. That demonstrates  
11:17:25 8 that Clash Royale allows the player to select a card when  
11:17:28 9 the actual cost of the card is greater than the current  
11:17:31 10 amount of Elixir. And so for that reason, as well, it's my  
11:17:34 11 opinion that Clash Royale does not infringe.

11:17:38 12 MR. KOHM: And next slide, Mr. Smith.

11:17:40 13 Q. (By Mr. Kohm) What claims does that implicate?

11:17:43 14 A. That's also all of them because all the claims require  
11:17:46 15 either that the player is permitted to select when the --  
11:17:58 16 effectively the cost of the -- the card is less than or  
11:18:00 17 equal to the upper limit of the point.

11:18:02 18 Or, in the '481 patent when the -- the cost of the  
11:18:08 19 card is smaller than or less than. So it's actually two  
11:18:11 20 different tests. In one patent it's less than or equal to.  
11:18:15 21 In the other patent, it's just less than. But in both  
11:18:18 22 cases, in Clash Royale, you can select when it's greater  
11:18:22 23 than.

11:18:22 24 So for -- for that reason, all of the claims are  
11:18:24 25 not infringed.

11:18:25 1 Q. Thank you.

11:18:27 2 You also provided opinions regarding invalidity;  
11:18:31 3 is that correct?

11:18:31 4 A. I did.

11:18:32 5 Q. What -- are you familiar with the term "POSITA"?

11:18:37 6 A. Yes.

11:18:38 7 MR. KOHM: Mr. Smith, if we could pull up the  
11:18:41 8 first -- thank you.

11:18:44 9 Q. (By Mr. Kohm) What does POSITA mean?

11:18:45 10 A. A POSITA is an acronym -- stands for person of ordinary  
11:18:51 11 skill in the art. And it's -- it's -- you look at the  
11:18:54 12 question of whether a patent was obvious through the eyes  
11:18:57 13 of one of these people of ordinary skill in the art.

11:18:59 14 So you don't look at it now in terms of what you  
11:19:02 15 might think. You look at it at the time the patent was  
11:19:05 16 invented through the eyes of someone who was working in the  
11:19:07 17 field at that time -- this person of ordinary skill.

11:19:10 18 Q. Do you also look at the claims through the perspective  
11:19:14 19 of a POSITA for infringement analysis?

11:19:17 20 A. Yes.

11:19:18 21 Q. And what about anticipation?

11:19:21 22 A. My understanding of anticipation is that claim --  
11:19:28 23 sorry. A prior art reference has to directly disclose each  
11:19:34 24 and every element of a -- of a claim.

11:19:40 25 Q. And when you're making that determination, do you do

11:19:43 1 that through the eyes of a POSITA or someone else?

11:19:45 2 A. It's my understanding, it's through the eyes of a  
11:19:52 3 POSITA, yeah.

11:19:53 4 Q. Do you have an opinion regarding what a POSITA's  
11:19:57 5 qualifications are in this case?

11:19:58 6 A. Yes. At the time, basically what you're talking about  
11:20:01 7 is someone who was working in the gaming field who was  
11:20:04 8 making games.

11:20:05 9 So, generally speaking, they would have a degree  
11:20:09 10 in computer science or some level of software. They'd --  
11:20:11 11 they'd have been working in software engineering. They'd  
11:20:14 12 have been doing the code. They'd have been making games.  
11:20:16 13 They'd be familiar with the similar types of systems that  
11:20:16 14 are described to or contemporaneous to the patent itself.  
11:20:23 15 So we're talking about network gaming systems. They'd be  
11:20:27 16 familiar with card battle games because that's what the  
11:20:29 17 patent is directed to. They'd have game design and  
11:20:32 18 development experience.

11:20:34 19 MR. KOHM: Next slide, Mr. Smith.

11:20:36 20 Q. (By Mr. Kohm) How did you conduct your invalidity  
11:20:38 21 analysis?

11:20:39 22 A. I reviewed the -- the prior art -- or I -- I looked at  
11:20:48 23 prior art and basically went through prior art references,  
11:20:56 24 what was disclosed by things that had come before the  
11:20:59 25 patent. And I compared it to the claims of the patent to

11:21:05 1 see whether one or more of those prior art references, that  
11:21:10 2 is alone or in combination, disclosed all of the claimed  
11:21:13 3 features of a given patent claim.

11:21:16 4 Q. I see the word "anticipation" in this second bullet  
11:21:20 5 point. What is that?

11:21:20 6 A. It's my understanding that a patent is invalid by  
11:21:24 7 anticipation or anticipated if a single prior art reference  
11:21:28 8 by itself discloses all of the limitations in a claim.

11:21:34 9 Q. And I see "obviousness" in the next bullet. What is  
11:21:38 10 that?

11:21:39 11 A. So obviousness is the test that if there are multiple  
11:21:44 12 prior art references where not all of the elements of a  
11:21:48 13 claim are disclosed in one but they might together be  
11:21:52 14 disclosed by multiple, then you look at both of them  
11:21:54 15 together, and say, well, would it have been -- would the  
11:21:58 16 person of ordinary skill have been motivated to combine  
11:22:01 17 them to understand that combination as something that would  
11:22:06 18 make the patent obvious? And so that's the test for  
11:22:10 19 obviousness.

11:22:12 20 MR. KOHM: Next slide, Mr. Smith.

11:22:14 21 Q. (By Mr. Kohm) What do we see in this slide?

11:22:17 22 A. These are -- these are the -- the cover pages of two  
11:22:24 23 documents that I have relied on for prior art. The first  
11:22:27 24 is a manual for computer game called Magic: The Gathering,  
11:22:32 25 which was released in 1997.

11:22:34 1           The second was a -- a manual for a computer game  
11:22:39 2 called BattleForge, which was released in 2009.

11:22:47 3           MR. KOHM: Mr. Smith, could we go to Slide 8,  
11:22:54 4 please -- Slide 7.

11:23:03 5 Q. (By Mr. Kohm) Mr. Friedman, do you have an opinion  
11:23:08 6 regarding whether Magic and BattleForge disclosed the  
11:23:14 7 limitations of -- I'm sorry, the preamble of Claim 1 of the  
11:23:20 8 '137 patent and the preamble of Claim 14 of the '137  
11:23:24 9 patent?

11:23:24 10 A. Yes, they do.

11:23:27 11           MR. KOHM: Mr. Smith, could we pull up DX-566,  
11:23:35 12 please? Thank you.

11:23:35 13 Q. (By Mr. Kohm) Does this relate to your opinion,  
11:23:40 14 Mr. Smith -- I mean, Mr. Friedman?

11:23:41 15 A. It does. This is the manual for Magic, and it  
11:23:46 16 discloses that there's going to be a platform on which  
11:23:50 17 players can play over the Internet. In other words, you've  
11:23:53 18 got to use a server because that's how the Internet works.

11:23:56 19 You've got your machine. You're connected to the Internet.

11:24:01 20           MR. KOHM: Mr. Smith, can you pull up DX-957-1,  
11:24:13 21 please? No, I'm sorry, DX-957 at 1 -- I'm sorry, one of  
11:24:25 22 the manual, not one of the exhibit. There we go. Thank  
11:24:30 23 you. Thank you.

11:24:30 24           If you could focus in on Creating an Account --  
11:24:34 25 Creating an Account, sorry, not character. Great.

11:24:45 1           Actually I apologize, right above -- the paragraph  
11:24:47 2 above Creating an Account. Sorry. Thank you.

11:24:50 3 Q. (By Mr. Kohm) What do we see here, Mr. Friedman?

11:24:53 4 A. Yes. This is part of the manual for the BattleForge  
11:24:56 5 game. It talks about -- effectively that BattleForge  
11:24:59 6 requires an account to run. So you've got to create an  
11:25:02 7 account with Electronic Arts, the publisher of this game.

11:25:05 8           And then you can log in and -- and then play the  
11:25:09 9 game. So it's talking about, first, you install the game,  
11:25:12 10 then you have to go create your account, and -- well,  
11:25:16 11 that's what it's telling you.

11:25:18 12 Q. Okay.

11:25:19 13           MR. KOHM: Could we go to Page 4 of this exhibit,  
11:25:24 14 Mr. Smith?

11:25:27 15 Q. (By Mr. Kohm) What is being shown here, Mr. Friedman?  
11:25:30 16 A. Yes, part of the -- the instruction manual discusses  
11:25:34 17 how -- basically how you go online and -- and play network  
11:25:38 18 games. It's disclosing that you can check to see which of  
11:25:42 19 your friends are online.

11:25:43 20           So this is a social feature. And you can also  
11:25:46 21 play online with -- with other players in  
11:25:51 22 player-versus-player matches.

11:25:53 23           MR. KOHM: And, Mr. Smith, can we go to the next  
11:25:57 24 demonstrative?

11:25:59 25 Q. (By Mr. Kohm) How does this tell you that the --

11:26:02 1 BattleForge and Magic meet the preamble of Claim 1 and  
11:26:07 2 Claim 14?  
  
11:26:07 3 A. Right. So the preamble simply talks about a server  
11:26:11 4 connected to a terminal device. The terminal device in  
11:26:13 5 this case would be the PC that you're playing these Windows  
11:26:18 6 games on. The server is what's out on the Internet that  
11:26:21 7 the game is connected to. Obviously, there's a  
11:26:23 8 communication line. That's what the Internet is. And  
11:26:25 9 these are battle games.

11:26:27 10 So together, and certainly in view of what one of  
11:26:31 11 ordinary skill in the art would have known at the time,  
11:26:33 12 these references disclose that the preambles of both  
11:26:38 13 Claims 1 and 14 were in the prior art.

11:26:40 14 Q. All right.

11:26:45 15 MR. KOHM: Let's go to Limitation 1a and 14a.

11:26:50 16 And, Mr. Smith, can you please pull up DX-566 at  
11:26:56 17 Page 9, and 652, if you can do them together? Thank you.

11:27:01 18 Great.

11:27:02 19 Q. (By Mr. Kohm) All right. What do we see here,  
11:27:05 20 Mr. Friedman?

11:27:05 21 A. Yes. This is a description of the installation process  
11:27:09 22 for Magic: The Gathering. It talks about how you've got to  
11:27:13 23 install the game on your PC, you copy the files on your  
11:27:16 24 hard drive.

11:27:17 25 Obviously, when you're using a computer, that's

11:27:20 1 what a PC is. And it's -- the point of the game is to  
11:27:23 2 display images on your screen, so here's a screenshot.

11:27:25 3 Q. Is there a controller disclosed here?

11:27:26 4 A. Yeah, so a Windows 95 -- a computer running Windows 95  
11:27:32 5 would have a controller, namely a CPU or microprocessor as  
11:27:37 6 part of it.

11:27:37 7 Q. What about information storage device?

11:27:40 8 A. Information storage device would be a hard disk.

11:27:46 9 Q. And would a computer have a hard disk?

11:27:48 10 A. Yes, your computer would have to have a hard disk in  
11:27:53 11 order to install this game.

11:27:55 12 Q. All right. What would this -- is there anything here  
11:27:57 13 that tells you that there would be a display of images of a  
11:28:01 14 game on a terminal device?

11:28:02 15 A. Yes. So, first of all, the installation process refers  
11:28:06 16 to a brief animation. One of ordinary skill would  
11:28:10 17 understand that to just talk about animation on the screen.

11:28:13 18                 And, second, there's a screenshot from a video  
11:28:18 19 that represents the game being played.

11:28:20 20                 So, again, these are video games. So there are  
11:28:22 21 going to be displays on -- on a video screen.

11:28:30 22                 MR. KOHM: Mr. Smith, can you pull up DX-957 at 1,  
11:28:36 23 the same page we were at before? Great.

11:28:39 24 Q. (By Mr. Kohm) What is shown here?

11:28:40 25 A. This is the installation section for BattleForge, and

11:28:45 1 it's talking about very similar things to what we just  
11:28:49 2 described. Installing BattleForge on a PC, downloading the  
11:28:54 3 game, launching the application.

11:28:57 4 It would be understood that you download the game  
11:28:59 5 onto your computer, which would have a processor and a hard  
11:29:04 6 drive. And then would display images of the game on the  
11:29:06 7 screen.

11:29:09 8 MR. KOHM: And could we go to Page 9, Mr. Smith?

11:29:15 9 Q. (By Mr. Kohm) What is shown here?

11:29:16 10 A. That's a screenshot from the game as published in the  
11:29:20 11 manual.

11:29:20 12 Q. Would this be displayed on a computer?

11:29:23 13 A. Yes, that would be a computer screen -- screenshot.

11:29:31 14 Q. And what is your conclusion regarding -- regarding  
11:29:34 15 whether BattleForge and Magic practice Limitations 1a and  
11:29:40 16 1 -- I'm sorry, 14a of the '137 patent?

11:29:41 17 A. Yeah, it's my opinion that both BattleForge and Magic  
11:29:46 18 disclose that limitation for both of those claims.

11:29:52 19 Q. All right.

11:29:52 20 MR. KOHM: Can you pull up the next limitations,  
11:29:55 21 Mr. Smith?

11:30:03 22 Q. (By Mr. Kohm) Let's -- turning to Limitation 1c and  
11:30:07 23 14c --

11:30:09 24 MR. KOHM: Mr. Smith, can you pull up DX-566 at 65  
11:30:13 25 and 111, if you can.

11:30:15 1 Q. (By Mr. Kohm) What is shown here, Mr. Friedman?

11:30:21 2 A. So let's see, we are looking at the Magic manual. We

11:30:28 3 have highlighted that there is a creature in play -- that

11:30:32 4 is, there's a -- a -- a character on the battlefield. And

11:30:38 5 it -- the manual is talking about how -- when you play

11:30:42 6 cards in the Magic game, one of the kinds of cards that you

11:30:45 7 can play acts to summon creatures onto the battlefield that

11:30:50 8 can battle for you. So that's -- that's how Magic works.

11:30:53 9 Q. Is there any information on game content?

11:30:56 10 A. Right. So a game content has been construed by the

11:31:00 11 Court to include character cards. And Magic demonstrates

11:31:09 12 character cards.

11:31:10 13 You can see on the left side of the lower

11:31:14 14 left-hand window, I guess, there's a card that represents

11:31:17 15 Undead Knight. And then there's one in -- there's actually

11:31:21 16 a handful in the lower hand -- where it says your hand,

11:31:27 17 there's -- they're hard to see, but there's a bunch of them

11:31:29 18 down there.

11:31:30 19 So these are the -- the character cards or the

11:31:36 20 cards in general that -- that Magic uses.

11:31:38 21 Q. And would you have information on game content

11:31:43 22 corresponding to each player character?

11:31:46 23 A. Yes. So the -- the way Magic works is you've got this

11:31:52 24 deck of cards, and they represent spells. Some of the

11:31:56 25 spells can summon characters. Some of the spells can do

11:31:59 1 direct damage. Some of the spells can do other things.

11:32:02 2 But some of those cards, the one that create or  
11:32:04 3 summon characters, those would be game contents  
11:32:08 4 corresponding to player characters.

11:32:10 5 Q. Thank you.

11:32:12 6 MR. KOHM: Mr. Smith, can you pull up DX-708?

11:32:19 7 Q. (By Mr. Kohm) What is shown here, Mr. Friedman?

11:32:29 8 A. This is a screenshot from a video of BattleForge being  
11:32:34 9 played. It depicts a row of cards across the bottom,  
11:32:41 10 and -- and it also depicts enemy and your own characters in  
11:32:46 11 the field. So your own characters are the ones sort of in  
11:32:49 12 the green bubbles with the green bars across the top.  
11:32:53 13 There's some enemy characters up at the top of the screen  
11:32:56 14 with red hit bars being fired on by your cannons.

11:33:00 15 Q. So what would be information on a game content  
11:33:02 16 corresponding to each of the player characters?

11:33:04 17 A. So down at the bottom of the screen, those -- those  
11:33:07 18 cards are how you cast or how you summon your characters or  
11:33:15 19 your Armies onto the field of battle.

11:33:16 20 So the Armies that you see sort of arrayed in  
11:33:20 21 formation down in the lower right side of the screen in the  
11:33:24 22 green bubble, those are your troops that have been  
11:33:27 23 previously summoned onto the battlefield by playing those  
11:33:31 24 cards.

11:33:32 25 MR. KOHM: And, Mr. Smith, can you pull up DX-957

11:33:36 1 at 7.

11:33:37 2 Q. (By Mr. Kohm) What's shown here, Mr. Friedman?

11:33:39 3 A. These are the specific cards that are used in

11:33:41 4 BattleForge, the -- the game content.

11:33:47 5 Q. And so what's your opinion regarding whether

11:33:50 6 BattleForge and Magic disclose Claim Element 1c and 14c of

11:33:59 7 the '137 patent?

11:33:59 8 A. They do.

11:34:03 9 Q. I'm sorry -- I'm sorry, I -- I misspoke.

11:34:06 10 What's your opinion regarding whether Magic and

11:34:09 11 BattleForge disclose Claim Element -- well, I'm sorry -- I

11:34:18 12 apologize.

11:34:18 13 What's your opinion regarding whether Magic and

11:34:21 14 BattleForge disclose Claim 1b and Claim 14b of the '137

11:34:26 15 patent?

11:34:26 16 A. They -- they do disclose it, the references that I've

11:34:31 17 just gone through disclose the features of both Claims 1b

11:34:36 18 and 14b.

11:34:37 19 Q. Okay.

11:34:39 20 A. Yes.

11:34:40 21 Q. Look -- I want to -- turning to Claim 1c and 14c.

11:34:45 22 MR. KOHM: Mr. Smith, can you pull up DX-566 at

11:34:51 23 51?

11:34:58 24 Q. (By Mr. Kohm) Does what is shown here from Magic

11:35:01 25 disclose information on game content?

11:35:04 1 I'm sorry. I'm sorry.

11:35:07 2 Does the information disclosed here from Magic

11:35:10 3 disclose a point set for each player characters and/or each

11:35:16 4 of the game contents?

11:35:16 5 A. Yes, it does. The casting cost of the Magic card is

11:35:24 6 described in the upper right corner. That little -- in

11:35:28 7 this particular case, it's a little circle with a skull in

11:35:31 8 it.

11:35:32 9 Q. And what is a casting cost?

11:35:34 10 A. A casting cost is -- well, in Magic, each card costs a

11:35:39 11 certain amount of mana to play, so you have to pay that

11:35:43 12 cost in order to play the card.

11:35:51 13 MR. KOHM: And Mr. Smith, if you could go to

11:35:55 14 DX-957 at 6.

11:36:04 15 Q. (By Mr. Kohm) What is shown here, Mr. Friedman?

11:36:06 16 A. So this is a card in BattleForge, it's actually very

11:36:09 17 similar to Magic in that it's showing you a character and

11:36:12 18 then the cost to play it. Also, in the upper right corner.

11:36:17 19 I mean, these are very similar because one came after

11:36:19 20 another. The -- the -- the power cost, in this case, the

11:36:23 21 resource that you spend in BattleForge is called Power.

11:36:32 22 Q. Thank you.

11:36:43 23 MR. KOHM: Go to the next demonstrative,

11:36:45 24 Mr. Smith.

11:36:46 25 Q. (By Mr. Kohm) Do you believe that Claim 1c and

11:36:51 1 Claim Element 14c are satisfied by Magic and BattleForge?

11:36:55 2 A. Yes, they are.

11:36:57 3 Q. One clean-up point -- just information storage device.

11:37:09 4 Do Magic and BattleForge disclose an information storage

11:37:13 5 device?

11:37:13 6 A. Yes, they both disclose that the information storage

11:37:16 7 device on your Windows computer, namely the hard drive

11:37:22 8 where you install the game, is what stores the information

11:37:27 9 that's claimed in Claims 1b and 14b.

11:37:38 10 Q. Turning to Claim 1e and 14e.

11:37:42 11 MR. KOHM: Mr. Smith, can you please pull up

11:37:47 12 DX-566 at 111 -- no, I'm sorry, 151.

11:38:05 13 Q. (By Mr. Kohm) Mr. Friedman, does this from Magic

11:38:08 14 disclose information on an upper limit of a point set for a

11:38:14 15 battle for a predetermined battle event?

11:38:20 16 A. The image of the screen does not.

11:38:21 17 Q. Do you believe that there is an upper limit of a point

11:38:28 18 set for the battle of a predetermined battle event in

11:38:32 19 Magic?

11:38:32 20 A. Absolutely.

11:38:33 21 Q. Why?

11:38:33 22 A. Magic discloses a -- that you have a mana pool that

11:38:39 23 over time, as -- as -- as you play turns, you can play what

11:38:44 24 are called land cards. And those land cards can be tapped

11:38:48 25 or harvested for mana. There are other ways to get mana,

11:38:55 1 as well, but the point is you have a pool of mana, and you  
11:38:59 2 can -- you can tap that mana to -- or, sorry, tap that --  
11:39:04 3 tap that resource pool to spend those resources on casting  
11:39:07 4 cards that then go into your battlefield or create other  
11:39:12 5 spell effects.

11:39:13 6 Q. Casting Cost is highlighted on the slide. Does that  
11:39:16 7 relate to point set?

11:39:17 8 A. That is the point set -- yes, that is the point of a  
11:39:21 9 game content, that's correct.

11:39:29 10 MR. KOHM: Mr. Smith, can we go to 95 -- DX-957 at  
11:39:36 11 6, please?

11:39:37 12 Q. (By Mr. Kohm) Does anything from this image of  
11:39:44 13 BattleForge lead you to believe that Limitation 1e and 14e  
11:39:49 14 are disclosed?

11:39:50 15 A. Sure. The -- the -- the power cost for casting the --  
11:40:01 16 the card that's on the screen, in this case the Fallen  
11:40:08 17 Skyelf, is in the context of the remainder of the manual.  
11:40:11 18 The way you play cards in BattleForge is very similar. You  
11:40:14 19 have a pool of available power.

11:40:18 20 In BattleForge, it actually grows over time, sort  
11:40:22 21 of constantly. But -- but, in this case, you spend that  
11:40:25 22 power to put these troops of these cards on to the field.

11:40:36 23 MR. KOHM: And if we could jump along to DX-566,  
11:40:42 24 please, at 111.

11:40:45 25 Q. (By Mr. Kohm) And this is from Magic?

11:40:48 1 A. That's correct. This is the -- the manual for Magic,  
11:40:51 2 and the mana pool that I referred to earlier is highlighted  
11:40:55 3 in yellow in the lower left corner.

11:41:08 4 MR. KOHM: And if we could go to DX-566 at 115.

11:41:17 5 Q. (By Mr. Kohm) What is shown here?

11:41:23 6 A. Right. This is also from the Magic manual. It talks  
11:41:26 7 about the process of selecting a spell to cast. So it says  
11:41:30 8 once you've picked the card that you want to play, you have  
11:41:32 9 to pay for that card by spending the mana that's in your  
11:41:36 10 mana pool.

11:41:40 11 Q. All right.

11:41:47 12 MR. KOHM: And if we could go to DX-708, please.

11:41:59 13 No, it's -- oh, yes, that's -- if you could zoom in on the  
11:42:06 14 50, please.

11:42:08 15 Q. (By Mr. Kohm) What are we seeing here?

11:42:10 16 A. This is a screenshot from the video of BattleForge, and  
11:42:13 17 the 50 in the big oval at the top of the screen represents  
11:42:18 18 your current power at this point in the game. And then  
11:42:21 19 there are two arrows. And it's a little blurry.

11:42:25 20 But what you see is two sources of power that are  
11:42:28 21 going into that current power. In other words, they're not  
11:42:31 22 there yet, but that represents the -- the rate of flow of  
11:42:36 23 power that you're currently generating from the sources in  
11:42:39 24 the game.

11:42:43 25 Q. All right.

11:42:44 1 MR. KOHM: If we could go to the next  
11:42:45 2 demonstrative, Mr. Smith.

11:42:47 3 Q. (By Mr. Kohm) So I want to do a real quick  
11:42:51 4 run-through --

11:42:51 5 MR. KOHM: Sorry, Your Honor.

11:42:52 6 Q. (By Mr. Kohm) Looking to Claim 1d, what would be the  
11:42:55 7 point set for each player of the player characters and/or  
11:42:59 8 each of the game contents in Magic?

11:43:02 9 A. In Magic that's the casting cost in mana for each card.

11:43:07 10 Q. What about BattleForge?

11:43:08 11 A. It's the power cost for each card.

11:43:11 12 Q. And turning to Claim limitation 1e, what would be the  
11:43:11 13 information of an upper limit of a point set for a battle  
11:43:18 14 with a predetermined battle event in Magic?

11:43:18 15 A. In Magic, that would be the amount of mana in the mana  
11:43:21 16 pool.

11:43:22 17 Q. Okay. And what would meet Claim 1e and 14e for  
11:43:27 18 BattleForge?

11:43:28 19 A. For BattleForge, that would be the amount of power in  
11:43:30 20 your power meter up at the top of the screen in that oval  
11:43:33 21 that we saw.

11:43:35 22 Q. Okay.

11:43:35 23 MR. KOHM: Mr. Smith, could we go to the next  
11:43:39 24 limitations?

11:43:40 25 Q. (By Mr. Kohm) And turning to Claim 1f and 14f.

11:43:45 1 MR. KOHM: Could we go to DX-566, again, at 111?

11:43:50 2 Q. (By Mr. Kohm) Is there a controller that's displaying  
11:44:03 3 a plurality of game contents in this first field here?

11:44:08 4 A. That's right. The controller is your PC in this case,  
11:44:11 5 and the hand of cards is shown in -- well, highlighted in  
11:44:15 6 yellow. This is a page out of the manual from Magic.

11:44:18 7 Q. And is the player able to select that game content?

11:44:22 8 A. That's right. That's the way you play the game is you  
11:44:25 9 go through -- it's really a scrolling menu of available  
11:44:28 10 cards, and you can click on one, drag it or play it on to  
11:44:32 11 the field.

11:44:33 12 Q. All right.

11:44:33 13 MR. KOHM: Pull up Page 114, please.

11:44:39 14 Q. (By Mr. Kohm) What is shown here?

11:44:41 15 A. This is further instruction on how to interact with the  
11:44:45 16 hand window. So it's noting that it's a small window  
11:44:49 17 floating over the territory -- territory is where you play  
11:44:52 18 the cards -- and this represents the hand of cards.

11:44:56 19 So the analogy is when you're playing the physical  
11:44:58 20 game, the actual physical game of Magic, you're holding the  
11:45:03 21 hand of cards. This is the computer implementation of  
11:45:06 22 that.

11:45:07 23 And it talks about how you can move the window  
11:45:09 24 around. You're going to want to do that if the battlefield  
11:45:11 25 gets really complicated because you can have cards

11:45:15 1 everywhere. So you can just drag the hand out of the way.

11:45:18 2 Q. Thank you.

11:45:20 3 MR. KOHM: Can we pull up DX-708, please?

11:45:24 4 Q. (By Mr. Kohm) And in BattleForge, what would be the  
11:45:28 5 controller displaying a plurality of the game contents in  
11:45:34 6 the first field?

11:45:34 7 A. Right. So at the bottom of the screen is the list of  
11:45:37 8 available cards to play. It's --

11:45:40 9 MR. KOHM: Mr. Smith, are you able to hide your  
11:45:43 10 controller? Thank you.

11:45:47 11 A. Perfect.

11:45:48 12 Yes, there's -- there's a list of all the cards  
11:45:50 13 that are available for the players. Some of them can be  
11:45:54 14 selected based on their sort of full height, and you can  
11:45:57 15 see them all, and others are sort of tucked down behind the  
11:46:01 16 bottom of the screen, and so you can't play those.

11:46:04 17 Q. And does this enable a player to select at least one  
11:46:07 18 desired king -- game content from a plurality of game  
11:46:11 19 contents to attack?

11:46:12 20 A. That's right. There's a plurality, obviously, at the  
11:46:15 21 bottom, and the ones that are ticked up and have the full  
11:46:20 22 color in them, those are the ones that you can select.

11:46:23 23 Q. What are the enemy characters here?

11:46:25 24 A. Oh, the enemy characters are your opponents in the  
11:46:28 25 game. At the very top of the screen, sort of hidden in a

11:46:32 1 cloud of magical explosions are some enemy troops that are  
11:46:38 2 coming to attack your base. So your towers are firing on  
11:46:41 3 them. You see these little white comets heading towards  
11:46:46 4 them.

11:46:46 5 Q. And what about Magic, who area -- what are the enemy  
11:46:48 6 characters in Magic?

11:46:49 7 A. Oh, in Magic, the enemy characters are the characters  
11:46:53 8 that the opponent's players summon onto the battlefield.  
11:46:56 9 So you and your opponent are both summoning features onto  
11:47:00 10 the battlefield.

11:47:01 11 MR. KOHM: All right. Move on to the next  
11:47:03 12 demonstrative, Mr. Smith.

11:47:05 13 Q. (By Mr. Kohm) Turning to Limitation -- do you believe  
11:47:10 14 Limitation 1f and 14f are met by Magic and BattleForge?

11:47:15 15 A. Yes, I do, for both claims and for both references.

11:47:18 16 Q. Okay. Moving on to 1g and 14g.

11:47:22 17 MR. KOHM: Mr. Smith, can you pull up DX-566 at 65  
11:47:28 18 and 115, please?

11:47:31 19 Q. (By Mr. Kohm) And does this show that when a -- that  
11:47:41 20 the controller permits a player to select the game content  
11:47:41 21 when a sum of the points of a player characters and/or game  
11:47:48 22 content selected by the player is less or equal than -- or  
11:47:51 23 equal two the upper limit of the point?

11:47:54 24 A. Right. Yes, it does. The upper limit of the point in  
11:47:59 25 Magic is the player's mana. And the point is the cost to

11:48:05 1 play the card.

11:48:07 2 And so, here, in Magic, what you have is the mana  
11:48:10 3 cost of a card. You have to be able to afford the mana  
11:48:15 4 cost of the card in order to play it.

11:48:16 5 Q. And at the very bottom, it says: You must draw enough  
11:48:21 6 mana from your mana pool, land in play, or other  
11:48:27 7 mana-producing cards to power the spell.

11:48:29 8 What does that mean?

11:48:31 9 A. Right. So there are actually numerous sources of  
11:48:36 10 magical power or mana in the game, Magic: The Gathering.

11:48:37 11 One source of power is you have that mana pool  
11:48:40 12 that we've already talked about. Lands in play can be  
11:48:46 13 harvested or what are called tapping -- turn the card  
11:48:48 14 sideways, and that produces a mana which then goes into  
11:48:51 15 your mana pool.

11:48:51 16 There are other mana-producing cards. For  
11:48:53 17 example, there's a card called Dark Ritual where you play  
11:48:55 18 it, its cost is one black mana, and it generates three  
11:48:59 19 black mana.

11:49:00 20 So there -- there are cards, for example, that --  
11:49:04 21 there's another card Llanowar Elves where if you tap it, it  
11:49:10 22 creates a green mana. So there -- there are sources of  
11:49:14 23 mana that aren't just the lands that you have in play.

11:49:16 24 Q. Thank you.

11:49:16 25 MR. KOHM: Dr. -- Mr. Smith, can you pull up

11:49:19 1 DX-708 again at -- just the screen of 840?

11:49:28 2 Q. (By Mr. Kohm) This screenshot from BattleForge, is it

11:49:31 3 showing the ability -- or, sorry, showing a controller

11:49:34 4 permitting the display of a plurality of game contents in

11:49:38 5 the first field of a terminal device so that the player can

11:49:41 6 select the desired game content?

11:49:43 7 A. Yes, it does. At the bottom of the screen, you see

11:49:46 8 some of the cards are available to play because they're not

11:49:49 9 grayed out. And those are the ones that currently are able

11:49:54 10 to be afforded based on -- if you look at the upper right

11:49:58 11 corner of the screen, you see the 84 in the bubble.

11:50:00 12 That's -- the prior screen we saw was 50, but power in

11:50:05 13 BattleForge has grown to 84 in -- in this particular

11:50:08 14 screenshot.

11:50:09 15 Q. And when a sum of the points is selected -- I'm sorry.

11:50:13 16 Does this also disclose 1g and 14g -- when the sum of the

11:50:20 17 points of a player characters and game content selected by

11:50:23 18 the player is less to or equal than the upper limit?

11:50:27 19 THE COURT: You know, Mr. Kohm, if you're going to

11:50:29 20 mumble and you're going to do it so fast that the court

11:50:33 21 reporter can't write it down, it's not going to help

11:50:35 22 anybody.

11:50:35 23 MR. KOHM: Understood, Your Honor.

11:50:36 24 THE COURT: Be mindful of the record, please.

11:50:38 25 How much -- how much do you anticipate the

11:50:39 1 remainder of your direct to be time-wise?

11:50:41 2 MR. KOHM: 10 -- 10 minutes.

11:50:42 3 THE COURT: All right. Let's see if we can't move  
11:50:45 4 along.

11:50:46 5 MR. KOHM: Okay.

11:50:48 6 Q. (By Mr. Kohm) Mr. Friedman, looking at 708 -- DX-708

11:51:01 7 at 840, anything here tell you that -- or disclose the

11:51:06 8 concept of a controller allowing you to select a player if

11:51:10 9 you have enough mana?

11:51:11 10 A. Yes. In this case, it's the power. But, yeah,

11:51:15 11 BattleForge does disclose that you can play a card if you  
11:51:17 12 can afford its cost, yes.

11:51:20 13 Q. All right.

11:51:20 14 MR. KOHM: Next slide, Mr. Smith.

11:51:24 15 Q. (By Mr. Kohm) Does this -- do you believe Claim

11:51:27 16 Elements 1g and 14g are -- are met by those two games --

11:51:32 17 I'm sorry, by BattleForge and Magic?

11:51:34 18 A. Yes, I believe that both Claims 1 and 14, Element g,

11:51:40 19 are met -- are shown by both Magic and -- and BattleForge.

11:51:44 20 Q. All right.

11:51:44 21 MR. KOHM: Could we pull up 14h, please,

11:51:47 22 Mr. Smith?

11:51:50 23 Q. (By Mr. Kohm) Is this the subtraction -- I'm sorry,

11:51:53 24 selection before subtraction before addition limitation we

11:51:57 25 talked about?

11:51:58 1 A. Yeah, that -- the language here talks about  
11:52:02 2 sequentially subtracting the point of the selected game  
11:52:08 3 content and then adding a predetermined amount to the upper  
11:52:12 4 limit. So this is the required order.

11:52:13 5 MR. KOHM: And, Mr. Smith, can you pull up DX-566?

11:52:17 6 Q. (By Mr. Kohm) Does Magic disclose that limitation?

11:52:21 7 A. It does. The first two steps are disclosed here.  
11:52:24 8 First, you select a card to cast, and then you use mana to  
11:52:27 9 pay for that casting cost.

11:52:29 10 Q. All right.

11:52:30 11 MR. KOHM: Pull up 708 at 840, again, Mr. Smith.

11:52:36 12 Q. (By Mr. Kohm) Does BattleForge disclose that  
11:52:38 13 limitation?

11:52:38 14 A. It does. This is a screenshot from the game. When you  
11:52:44 15 play a card, it's mana -- not mana. In this case power --  
11:52:50 16 its power cost is subtracted from the meter at the top of  
11:52:53 17 the screen.

11:52:55 18 Q. All right.

11:52:55 19 MR. KOHM: Mr. Smith, if we could pull up the  
11:52:58 20 demonstrative with Claim 2 and Claim 15. Next one, please.

11:53:02 21 Great.

11:53:02 22 Q. (By Mr. Kohm) With respect to Dependent Claims 2 and  
11:53:12 23 15, Mr. Friedman --

11:53:17 24 MR. KOHM: Mr. Smith, can you pull up DX-566 at 78  
11:53:20 25 and 115.

11:53:22 1 Q. (By Mr. Kohm) Can you tell me whether Magic discloses  
11:53:26 2 those dependent claims?

11:53:27 3 A. Yes, absolutely. So when you play a card in Magic, you  
11:53:31 4 take it out of your hand, and you put it onto the field.  
11:53:34 5 And then later on, there's an opportunity to draw a card  
11:53:37 6 back into your hand. So it does disclose both of those  
11:53:42 7 steps.

11:53:53 8 MR. KOHM: And, Mr. Smith, can you pull up -- or  
11:53:56 9 maybe --

11:53:57 10 Q. (By Mr. Kohm) Does BattleForge also disclose those --  
11:53:59 11 those -- those dependent claims?

11:54:00 12 A. BattleForge discloses that when you play a card, it can  
11:54:05 13 become disabled, and so it kind of tucks down behind. And  
11:54:09 14 so it's not really available to play anymore. And after  
11:54:12 15 awhile, it regains its charge and pops back into  
11:54:16 16 selectability.

11:54:17 17 Q. Would you consider BattleForge and Magic together  
11:54:20 18 practicing Claim 2 and Claim 15?

11:54:23 19 A. Well, I think certainly, and also in combination with  
11:54:27 20 the knowledge of one of skill in the art, what we're  
11:54:29 21 talking about here is playing a card from your hand and  
11:54:32 22 drawing a replacement. So that was obviously well-known at  
11:54:45 23 the time.

11:54:45 24 MR. KOHM: All right. Could we jump to a slide  
11:54:52 25 with the '481 patent and '137 patent, Mr. Smith? Two more.

11:55:06 1 Q. (By Mr. Kohm) Mr. Friedman, would you please walk me  
11:55:12 2 through what you believe meets the claim limitations of 1a,  
11:55:19 3 i, ii, iii, iv, and v of the '481 patent?

11:55:23 4 A. Right. So we've already actually discussed all of the  
11:55:26 5 features in the '481 patent for Element 1a because they  
11:55:32 6 correspond to features that we've looked at for Claim 1 of  
11:55:36 7 the '137 patent. And they're labeled here sort of as a  
11:55:39 8 side-by-side comparison.

11:55:43 9           But, for example, the fact that you have a server  
11:55:45 10 and memory -- or storage unit on your computer, as well,  
11:55:51 11 is -- is a disclosure of the information storage device or  
11:55:53 12 a storage unit.

11:55:56 13           The creatures that you summon from the cards that  
11:55:59 14 you play in Magic are information on plural kinds of player  
11:56:03 15 characters. The card itself that represents those  
11:56:05 16 characters is information on the game content. The power  
11:56:10 17 and toughness -- this -- so this is actually new in the  
11:56:15 18 '481 patent. It doesn't have a corresponding limitation in  
11:56:17 19 the '137. This talks about information in a first  
11:56:22 20 parameter value related to the battle.

11:56:26 21           And in Magic, each card has both sort of an attack  
11:56:31 22 value, which they call power, and a defensive power, which  
11:56:34 23 they call toughness. And we'll see that in the -- we've  
11:56:36 24 already seen it in the corner of the -- each card, but --  
11:56:39 25 so that's disclosed by Magic, as well.

11:56:42 1 And then we get back to the second parameter  
11:56:44 2 value. That's equivalent to the point set. That is the  
11:56:47 3 cost to play each card.

11:56:49 4 And then the third parameter value in the '481  
11:56:51 5 patent is equivalent to the upper limit of the point, which  
11:56:54 6 is the available mana in the case of Magic.

11:57:02 7 Q. All right.

11:57:03 8 MR. KOHM: Mr. Smith, can you go to the slide with  
11:57:09 9 Claim Element 1b of the '481 highlighted?

11:57:18 10 Q. (By Mr. Kohm) So looking at '4 -- the '481 patent,  
11:57:21 11 Claim 1ai through 1iv, what is your opinion regarding Magic  
11:57:34 12 and BattleForge?

11:57:34 13 A. It's my opinion that both of those games disclose all  
11:57:38 14 of those features.

11:57:39 15 Q. And do they all -- do both of them disclose a storage  
11:57:42 16 unit that stores those features?

11:57:44 17 A. Yes, that would be installed on -- on the PC that  
11:57:47 18 you're playing the game on.

11:57:50 19 Q. Okay. Looking at a display processing unit that  
11:57:58 20 displays a plurality of game contents in a first field --  
11:58:03 21 have we discussed that concept yet?

11:58:06 22 A. A display process -- no, we have not.

11:58:09 23 Q. All right.

11:58:09 24 MR. KOHM: If we could turn to DX-566, please, at  
11:58:11 25 111.

11:58:13 1 Q. (By Mr. Kohm) Does Magic disclose such a processing  
11:58:16 2 unit?

11:58:16 3 A. Well, Magic discloses that it's a video game on your  
11:58:20 4 PC. So in order for you to display things, you've got to  
11:58:23 5 have a display processing unit.

11:58:25 6 MR. KOHM: And if we could go to Exhibit 708  
11:58:28 7 again.

11:58:29 8 Q. (By Mr. Kohm) What about BattleForge?

11:58:30 9 A. Same thing. It's a computer game. You display images  
11:58:33 10 on your screen.

11:58:39 11 MR. KOHM: The next slide, Mr. Smith.

11:58:43 12 Q. (By Mr. Kohm) What about Claim Element 1c, is that  
11:58:45 13 disclosed by Magic?

11:58:46 14 A. Yes, it is. So Magic uses the mouse and the keyboard  
11:58:50 15 as input receiving units.

11:58:52 16 MR. KOHM: Mr. Smith -- I'm sorry, could we pull  
11:58:54 17 up DX-566 at 60?

11:59:00 18 Q. (By Mr. Kohm) Please continue.

11:59:01 19 A. Yes, this -- this is a section of the manual that talks  
11:59:04 20 about clicking and dragging on the screen using the mouse  
11:59:08 21 to interact with the game.

11:59:10 22 Q. What about BattleForge?

11:59:12 23 A. BattleForge discloses the same thing. Click the cards  
11:59:15 24 at the bottom of the screen with your mouse and then drag  
11:59:19 25 them to the battlefield to deploy them.

11:59:22 1 MR. KOHM: And next slide, Mr. Smith.

11:59:25 2 Q. (By Mr. Kohm) What about a control unit that removes

11:59:29 3 game content, Claim Element 1d? Does Magic disclose that?

11:59:36 4 A. It does, yes. So these sort of four steps, the control

11:59:40 5 unit has to do the removal. That's when you take the card

11:59:43 6 out of your hand and put it on the screen. It updates the

11:59:47 7 first field with a new game content.

11:59:49 8 That is when you draw a new card, and then it --

11:59:52 9 the other two limitations sequentially subtracts the second

11:59:56 10 parameter and adds a predetermined amount. Those we've

11:59:59 11 already talked about. That's when you spend the mana and

12:00:02 12 then when you get more mana. So Magic discloses all of

12:00:06 13 that.

12:00:09 14 MR. KOHM: And could you pull up DX-566 at 78 and

12:00:16 15 115, please?

12:00:16 16 Q. (By Mr. Kohm) Does this -- what is this showing?

12:00:19 17 A. This is talking about casting a card. You've cast a

12:00:22 18 permanent spell, so the card is out of your hand. It's on

12:00:27 19 the battlefield. It stays there. And so how you cast that

12:00:30 20 spell is by paying its mana costs.

12:00:33 21 MR. KOHM: And, Mr. Smith, can we go to Page 130.

12:00:36 22 Q. (By Mr. Kohm) What --

12:00:38 23 MR. KOHM: 130, please.

12:00:44 24 Q. (By Mr. Kohm) What is shown here?

12:00:45 25 A. This is describing how you can draw a card into your

12:00:48 1 hand.

12:00:51 2 MR. KOHM: And 53 and 51, please, Mr. Smith.

12:01:01 3 Q. (By Mr. Kohm) And what is the manual showing here?

12:01:04 4 A. This -- these sections of the manual are talking about  
12:01:07 5 how mana is generated. Tapping a land, like I say, is one  
12:01:13 6 way, but not all -- not all mana sources are lands. So  
12:01:18 7 this is another example of a way to generate mana.

12:01:20 8 You can tap a card called Llanowar Elves. I  
12:01:20 9 talked earlier about the Dark Ritual card, which when you  
12:01:33 10 cast it, it directly generates mana -- mana.

12:01:33 11 THE COURT: Ladies and gentlemen, we're going to  
12:01:36 12 break for lunch at this point. We'll finish this direct  
12:01:38 13 examination after we come back from lunch.

12:01:41 14 If you'll take your notebooks with you to the jury  
12:01:43 15 room. The clerk's office has advised that your lunch is  
12:01:46 16 there and waiting on you.

12:01:46 17 Follow all my instructions, including not to  
12:01:48 18 discuss the case among each other, and we'll reconvene  
12:01:50 19 hopefully before 1:00 o'clock.

12:01:52 20 The jury is excused for lunch at this time.

12:01:55 21 COURT SECURITY OFFICER: All rise.

12:01:55 22 (Jury out.)

12:01:56 23 THE COURT: Counsel, I will want you available in  
12:02:23 24 chambers by 12:30 to look at what remains as far as witness  
12:02:28 25 demonstrative disputes that were not covered this morning,

12:02:32 1 because my directives to have them to the Court by  
12:02:35 2 7:00 a.m. didn't come in until 7:30, and then when I got --  
12:02:39 3 had no numbers on it corresponding to your written  
12:02:43 4 objections.

12:02:44 5 So as we've done all day today, we will try to  
12:02:47 6 take these up on-the-fly as we go, rather than delay trial.  
12:02:53 7 But take 30 minutes for lunch, and then be available at  
12:02:55 8 chambers by 12:30.

12:03:00 9 We stand in recess.

12:30:31 10 (Recess.)

11

12 CERTIFICATION

13

14 I HEREBY CERTIFY that the foregoing is a true and  
15 correct transcript from the stenographic notes of the  
16 proceedings in the above-entitled matter to the best of my  
17 ability.

18

19 /S/ Shelly Holmes \_\_\_\_\_  
20 SHELLY HOLMES, CSR, TCRR  
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